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OVERSIGHT OF THE MOTOR CARRIER ACT OF 1980

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

OVERSIGHT OF THE MOTOR CARRIER ACT OF 1980

SEPTEMBER 18, 1984

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OVERSIGHT OF THE MOTOR CARRIER ACT OF 1980

TUESDAY, SEPTEMBER 18, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:03 a.m., in room SR-253, Russell Senate Office Building, Hon. Bob Packwood (chairman of the committee) presiding.

Staff members assigned to this hearing: Karen Phillips, professional staff member, Steve Palmer, and Linda Morgan minority staff counsels.

OPENING STATEMENT BY THE CHAIRMAN

The **CHAIRMAN**. The committee will please come to order. The hearing this morning is the oversight hearing mandated by the law in 1980. I am glad they did, because quite often, but for the law requiring these hearings, we might not get to them and they are necessary.

As those of you who are testifying and those who have looked at the witness list are aware, we have a cross-section today of those involved in trucking in this country. I think by the time we are done, we will at least have a reasonable overview, differences of opinion, I understand, but a reasonable overview as to whether or not truck deregulation is working and whether or not it is moving in the direction that Congress intended.

We will start today with the Honorable Reese Taylor who is the Chairman of the Interstate Commerce Commission. I would say to the Chairman and to all of the other witnesses, your statements in total will be in the record. I would prefer that you not read them; to the extent that they were in last night, or at least yesterday afternoon, I have had a chance to read them all. And from my standpoint, I would prefer that you put them in the record, make the points that you want emphatically and orally, and leave some time for questions.

Mr. Chairman, are you ready?

STATEMENT OF HON. REESE H. TAYLOR, JR., CHAIRMAN, INTERSTATE COMMERCE COMMISSION, ACCOMPANIED BY HEATHER GRADISON, COMMISSIONER

Mr. **TAYLOR**. Mr. Chairman, good morning, and we are, and let me begin if I may by introducing the people at the table with me this morning. On my far left is Warren McFarland, who is the director of our Office of Compliance and Consumer Assistance; on his right is our new Commissioner Lamboley, who wanted to come and observe the proceedings. I might tell you that all of our new Commissioners are sworn in now.

The **CHAIRMAN**. You are as relieved as I am, I think, to have a full complement.

Mr. **TAYLOR**. I am. I think we both are delighted.

On my immediate left is Commissioner Gradison, who is going to have a brief statement to make when I conclude mine. On my right is Jan Rosenak, the commission's legislative counsel; Bill Southard, who runs our Office of Transportation Analysis; and on my far right is Ron Young, director of our Bureau of Accounts.

I want to thank you for the opportunity to appear before this committee to present the views of the Commission with regard to the implementation and effects of the Motor Carrier Act of 1980. In addition to the full statement, appendices are included which provide additional information on Commission proceedings and the latest earnings and traffic volume data for the Nation's largest motor carriers of property.

At the prior motor carrier oversight hearings, the Commission has testified that the motor carrier industry and the users of its services have responded favorably to the changes mandated by the Motor Carrier Act of 1980. I would like to strongly reaffirm that view today.

As the Commission has previously indicated, the financial difficulties that some motor carriers experienced in 1982 were largely due to the then-existing economic conditions, rather than regulatory reform. The latest figures show that the trucking industry's financial picture continues to improve substantially, along with the improvement in the economy.

At this point, I'd like to point out some of the highlights of the Motor Carrier Act of 1980 for the 14-month period ending August 31, 1984.

First, since the effective date of the act, July 1, 1980, 25,333 new carriers have received authority from the Commission. More than 7,112 grants of authority have been issued to new carriers since September 21, 1983.

The total number of new certificates served since the act went into effect is 69,446. There was an increase of approximately 9,035 new certificates since the last Senate hearing.

As expected, applications appear to have leveled off now. As of June of this year, applications were being filed at the rate of approximately 1,100 each month.

Overall shipper satisfaction with the level of service remains high.

Contract carrier applications, as a percent of all applications, rose to 37 percent during the 4th year under the act. For the first 3 years, they accounted for 16 percent, 27 percent, and 28 percent respectively. Existing carriers accounted for about 65 percent of all contract carrier applications for the 4th year.

More than 1,000 firms, with approximately 11,000 subsidiaries, have notified the Commission of their intent to engage in compensated intercorporate hauling.

Independent rate actions increased steadily through fiscal year 1983. In calendar year 1979, the number was 60,000, while for fiscal year 1983, the number rose to 230,184.

Substantial improvements in financial performance and tonnage hauled were reported by the 100 largest motor carriers of property for the 12 months ending March 31, 1984 as compared with the same period of 1983. I think these are very interesting figures. Operating revenues increased 10.1 percent, $16.7 billion, as revenue tons hauled rose by .9 percent. Net carrier income increased by 95.9 percent to $688.4 million. Net income more than doubled, rising to $389.8 million. The combined operating ratio for these carriers improved from 97.7 to 95.9 percent. Rate of return on equity increased from 6.69 percent to 12.37 percent.

As discussed in more detail in the text of our statement, service levels remain good. Complaints continue at a relatively low level. The number of complaints is substantially below the pre-Motor Carrier Act levels.

During the first 10 months of fiscal year 1984, complaints against property carriers, other than household goods carriers, have decreased 28.8 percent from the same period of the previous fiscal year. The monthly average of 878 in fiscal year 1983 dropped to 625 per month in fiscal year 1984.

Based on 8 months actual data, projected motor carrier tariff filings for fiscal year 1984 are 1,100,000. This estimate may be conservative, since we anticipate a further increase in filings as a result of the Commission's action in Ex Parte No. MC–170, short notice effectiveness for independently filed motor carrier and freight forwarder rates, which became effective on June 25, 1984. In that proceeding, the Commission adopted final rules reducing the notice period for motor carrier and freight forwarder independent rate filings to 1 day for decreases and 7 working days for increases.

The projected total for motor carrier tariff filings in fiscal year 1984 does not show as substantial an increase over fiscal year 1983 as has been the case in prior year comparisons. There are several reasons for the lesser increase. This year's total does not include any contract carrier filings, since the Commission removed the tariff filing requirement for motor contract carriers by its decision in Ex Parte No. MC–165, exemption of motor contract carriers from tariff filing requirements, which became effective September 28, 1983.

Finally, it appears that motor carriers are not publishing as many different rate discount provisions as in the past several years. The upturn in economic activity which has increased the demand for motor carrier service may have lessened, to some extent, the need for carriers to publish special discounts to attract new business. While competition remains strong, carriers in many instances are placing more emphasis on such features as improved and specialized service, in lieu of discounting, to obtain new traffic.

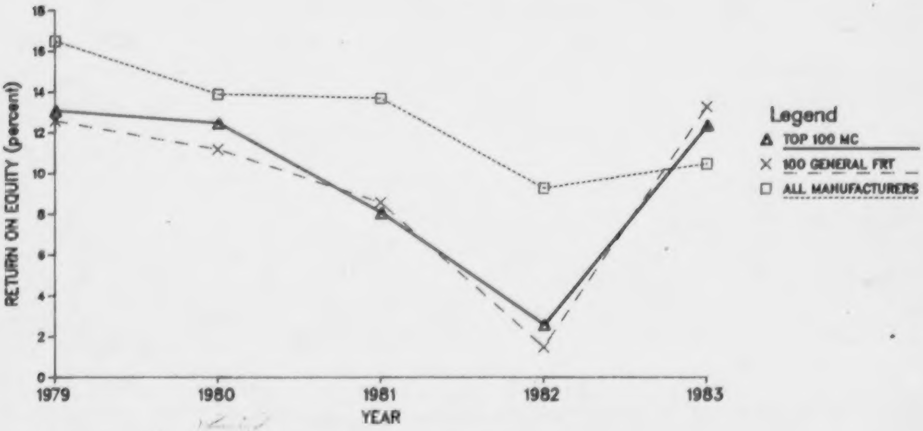
Turning to the trucking industry's financial performance, as I mentioned earlier, our most recent data revealed that the Nation's largest trucking companies reported large increases in both revenues and earnings for the first quarter of 1984 and the 12 months ending March 31, 1983, as compared to the same period the previous year. I would like to submit for the record, if I may, Mr. Chairman, four charts which illustrate the dramatic improvement in earnings experienced by motor carriers since the recession of 1982.

The CHAIRMAN. They will be in the record.

Mr. TAYLOR. This chart compares, for the years 1979 through 1983, the returns on equity earned by 100 of the largest motor carriers of property (including household goods and other specialized commodity carriers) with those earned by 100 of the largest general freight carriers. The composite returns on equity earned by all manufacturing corporations (all those reporting to the Bureau of the Census—approximately 7,500 companies) are also shown for purposes of comparison. This chart excludes the two UPS carriers.

TOP 100 MC VERSUS 100 LARGEST GENERAL FREIGHT

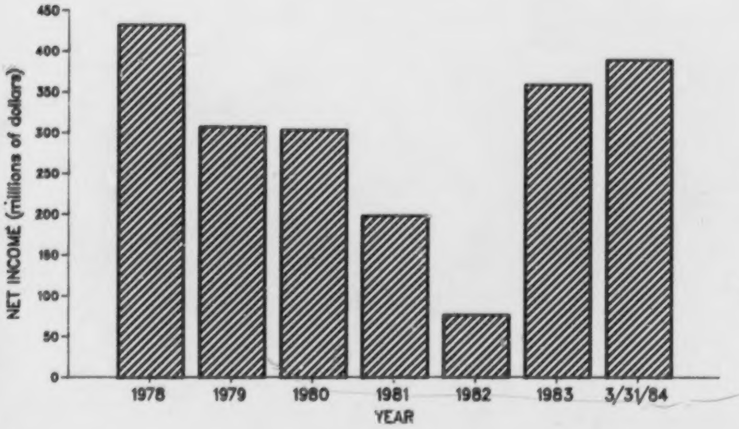
RETURN ON EQUITY : TOP 100 MC – 100 GENERAL FREIGHT – ALL MANUFACTURERS
YEAR 1979 – YEAR 1983
(PERCENT)



This chart shows, for the years 1978 through 1983 and for the 12 months ending March 1, 1984, the net income earned by 100 of the largest motor carriers of property. These carriers include, in addition to general freight carriers, household goods and special commodity carriers. The two UPS carriers are not included.

100 OF THE LARGEST MOTOR CARRIERS OF PROPERTY

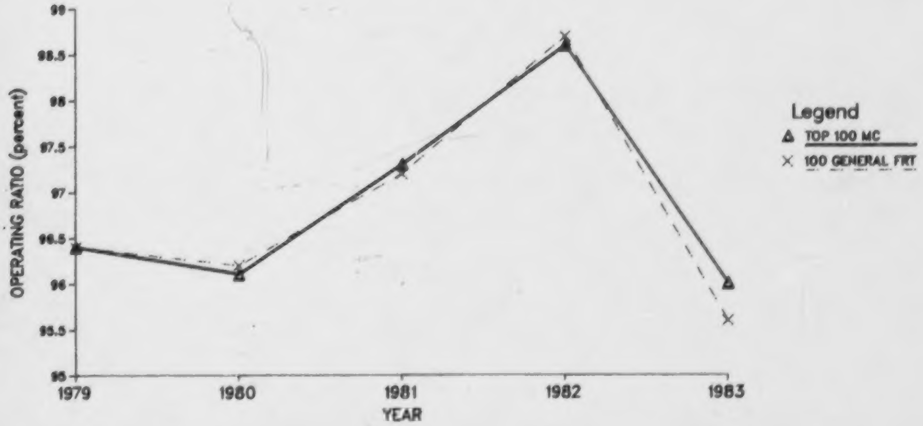
NET INCOME
YEAR 1978 – 12 MONTHS ENDING 3/31/84
(IN MILLIONS OF DOLLARS)



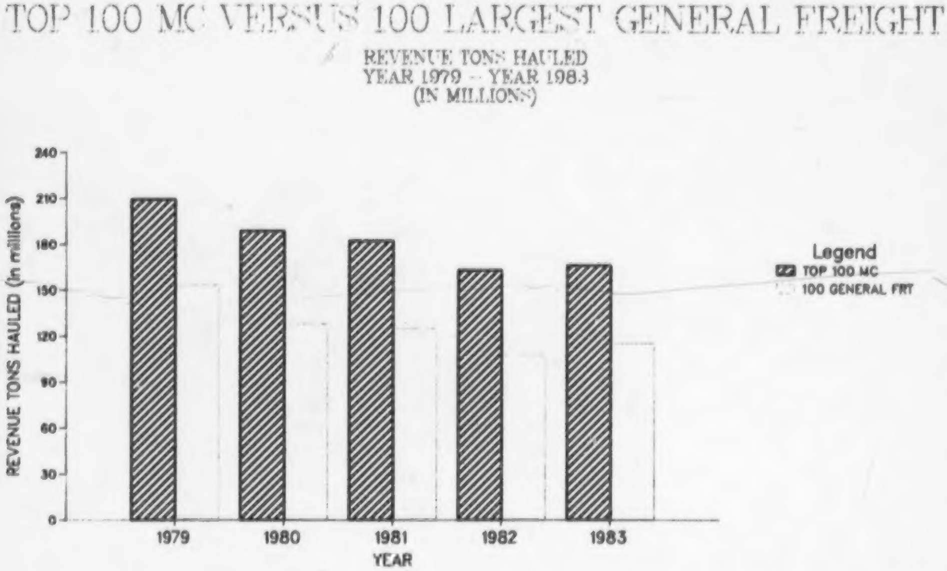
This chart compares, for the years 1979 through 1983, the operating ratios of 100 of the largest motor carriers of property (includes household goods and other specialized commodity carriers) with those of 100 of the largest general freight carriers. The chart does not reflect the operating ratios of the two UPS carriers. The operating ratio is the ratio of operating expenses to operating revenues.

TOP 100 MC VERSUS 100 LARGEST GENERAL FREIGHT

OPERATING RATIO
YEAR 1979 – YEAR 1983
(PERCENT)



This chart compares, for the years 1979 through 1983, the revenue tons hauled by 100 of the largest motor carriers of property (includes household goods and other specialized commodity carriers) with those hauled by 100 of the largest general freight carriers. The chart does not show tonnage figures for the two UPS carriers.



TOP 100 MC VERSUS 100 LARGEST GENERAL FREIGHT

REVENUE TONS HAULED
YEAR 1979 – YEAR 1983
(IN MILLIONS)

I think you will be interested in these, and I might add that there has been some question about our numbers and how they have been put together. The ATA has challenged their validity and their relationship to freight carriers. These charts make that connection, and Ron Young is prepared to defend our analysis which we feel absolutely accurately reflects what is going on in the motor carrier industry, if you would care to have that.

The **Chairman**. Mr. Chairman, if the day ever comes that the Commission submits figures and no one questions them at all—I am not sure that is the millenium. Something will have gone wrong with the system if that ever happens.

Mr. **Taylor**. I am afraid you are correct, but we are prepared to respond to the extent that any questions do arise or that you might have any.

Going on, the Commission continues to facilitate intermodalism in such cases as Ex Parte No. 156, where the Commission removed the special circumstances requirement which had restricted grants for motor carrier authority for rail-affiliated motor carriers, and Ex Parte No. 438, where the Commission eliminated the special circumstances requirement for the acquisition of motor carriers by railroads.

The actions the Commission has taken in other particular proceedings since we last testified before this committee are set forth in an appendix to our statement, and I will not take the time now to further discuss these proceedings.

I would, however, like to mention one very significant proceeding recently decided by the Commission; namely, Ex Parte No. MC-172. The National Small Shipments Traffic Conference, Inc. and the Drug and Toilet Preparation Conference, Inc., supported by the National Industrial Transportation League and the Department of Justice, had petitioned the Commission for the withdrawal of antitrust immunity for collective ratemaking by motor carriers of property on shipments under 1,000 pounds. According to the petition, continued antitrust immunity for collective ratemaking on these shipments is inconsistent with the transportation policy of 49 U.S.C. 10101A.

By Notice of Proposed Rulemaking, served October 5, 1983, the Commission solicited comments on whether antitrust immunity should be withdrawn with respect to rates on shipments under 1,000 pounds. In addition, the Commission requested comments on whether 1,000 pounds or some other level is the appropriate point for defining small shipments in the context of the proposal.

Finally, comments were requested on the question of whether antitrust immunity should be withdrawn from any other area of motor rate bureau activity, or should be withdrawn altogether. As you know, in a report issued in 1983, the Motor Carrier Ratemaking Study Commission recommended the complete elimination of antitrust immunity for collective ratemaking for all rates, for freight classification, and for related activities in the motor carrier industry. Subsequent to our notice, comments were filed in Ex Parte No. MC-172 by more than 60 parties, including yourself, Mr. Chairman.

In view of the important issues involved and the considerable interest the proceeding generated, the Commission scheduled an oral argument in the matter on June 26. On August 9 of this year, in open conference, the Commission decided the record would not support the withdrawal of antitrust immunity for collective ratemaking, and voted to deny the petition.

Also, I might note the Commission voted to certify the record in Ex Parte No. MC-172 to Congress.

The last matter I would like to address, the matter which is detailed in the full statement, concerns the Commission's new enforcement policy. This policy establishes a high emphasis group of violations which will receive the greatest allocation of enforcement resources by the Commission's Office of Compliance and Consumer Assistance. While the new policy accents the more serious violations and stresses, by the way, marketplace solutions, the Commission did make it clear that no infraction would be ignored.

This concludes the Commission's remarks, Mr. Chairman.

[The statement follows:]

STATEMENT OF HON. REESE H. TAYLOR, JR., CHAIRMAN, INTERSTATE COMMERCE COMMISSION

Mr. Chairman and Members of the Committee: I want to thank you for the opportunity to appear before this Committee to present the views of the Commission with regard to the implementation and effects of the Motor Carrier Act of 1980. In addition to the statement, we have included the following attachments: [1] (1) a list providing additional information on Commission proceedings; and (2) the latest earnings and traffic volume data for the Nation'a largest motor carriers of property.

At the last oversight hearing, as at prior hearings before this Committee, the Commission testifed that the motor carrier industry and the users of its services have responded favorably to the changes mandated by the Motor Carrier Act of 1980. I would like to strongly reaffirm that view today.

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[1] The attachments were not reproducible and are in the Committee files.

As the Commission has previously indicated, the financial difficulties that some motor carriers experienced in 1982 were largely due to the then-existing economic conditions, rather than regulatory reform. The latest figures show that the motor carriers' financial picture continues to improve substantially, along with he improvement in the economy.

At this time, I would like to point out some of the highlights for the fourteen-month period ending August 31, 1984, under the Motor Carrier Act of 1980.[2]

Since the effective date of the Act, July 1, 1980, 25,333 new carriers have received authority from the Commission. This marks an increase of 7,112 over the figures reported to this Committee on September 21, 1983.

The total number of new certificates served since the Act went into effect is 69,446. There was an increase of approximately 9,035 new certificates since the last Senate hearing.

As expected, applications appear to have leveled off. As of June of this year, applications were being filed at a rate of approximately 1,100 each month. They are holding steady at about that rate.

Overall, shipper satisfaction with the level of service remains high.

Although initial results indicated that the Motor Carrier Act had little positive impact on owner-operators, recent figures suggest that, increasingly, they are making use of the special provisons of the Act to obtain their own operating authority. Since June 1, 1982, 387 owner-operators have been granted certificates for operating authority.

Contract carrier applications, as a percent of all applications, rose to 37 percent during the fourth year under the Act. For the first three years, they accounted for 16 percent, 27 percent, and 28 percent, respectively. Existing carriers accounted for about 65 percent of all contract carrier applications for the fourth year.

Broker authority growth has been strong, with 1,195 approvals since mid-1983. This is an annual rate of 1,304, which is 45 percent higher than a year earlier.

More than 1,000 firms, with approximately 11,000 subsidiaries, have notified the Commission of their intent to engage in compensated intercorporate hauling.

Independent rate actions increased steadily through FY 1983 from 27,141 in calendar year 1979 to 60,000 and 115,085 in calendar years 1980 and 1981; and to 180,829 and 230,184 during fiscal year 1982 and fiscal year 1983. For fiscal year 1984, 59,426 independent actions are projected, based on six months' actual data from major rate bureaus. The projected drop is attributed to the fact that many motor carriers are no longer publishing independent rates through the rate bureau process, but instead are publishing discount provisions and individually negotiated rates in individual tariffs.

TOFC/COFC traffic continues to offer opportunity and competitive challenge to motor carriers. Piggyback volume rose approximately 20 percent during 1983, and is continuing to increase in 1984. Numerous motor carriers are specializing in gathering and distribution operations, in coordination with long-haul motor carriers and railroads.

Substantial improvements in financial performance and tonnage hauled were reported by the largest motor carriers of property for the 12 months ending March 31, 1984, as compared to the same period of 1983. Operating revenues increased 10.1 percent to $16.7 billion, as revenue tons hauled rose 5.9 percent. Net carrier income increased by 95.9 percent, to $688.4 million. Net income more than doubled rising to $389.8 million. The combined operating ratio for these carriers improved from 97.7 to 95.9 percent. Rate of return on equity increased from 6.69 percent to 12.37 percent.

SERVICE

Based on available data, it is clear that the pre-Motor Carrier Act predictions of strengthened competition among carriers, resulting in lower rates and increased price/service options for shippers, have indeed proved correct.

During the first 10 months of fiscal year 1984 (October 1, 1983, to July 31, 1984), complaints against property carriers, other than household goods carriers, have decreased 28.8 percent from the same period of the previous fiscal year. The monthly average of 878 in fiscal year 1983 dropped to 625 per month in fiscal year 1984.

However, for the fiscal year 1984 period, complaints involving cargo claims increased to 26.5 percent of the total from 24.5 percent; and service complaints increased from 10.2 percent to 13.7 percent. Owner-operator complaints as a percentage of total complaints dropped from 45.2 percent in fiscal year 1983 to 41.4 percent in fiscal year 1984. Rate complaints also experienced a decline from 20.1 percent of the total to 18.4 percent.

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[2] Figures are based on data for this fourteen-month period unless otherwise specified.

Over 80 percent of the claim complaints received still involve the manner in which the carriers disposed of the claims for damage or loss. In fiscal year 1983, they amounted to 84 percent of the claim complaints and, in fiscal year 1984, 82 percent were in this category. The total of such claim complaints, however, dropped from 182 per month in fiscal year 1983 to 136 in fiscal year 1984.

SIGNIFICANT CHANGES DURING THE FOURTH YEAR OF IMPLEMENTATION OF THE MOTOR CARRIER ACT

The fourth year of experience with the Motor Carrier Act is marked by a continuation in the trend toward an increased number of contract carrier applications, particularly in regard to the percent of applications filed by first-time applicants. This is in contrast to the dramatic increase during the first year in the overall number of applications for common carrier authority, a phenomenon which was primarily due to the initial surge by existing carriers to expand their authority under the new liberalized entry standards.

The following table illustrates these changes:

PERCENT OF ALL APPLICATIONS

[rounded]

Dispositions	July 1980–June 1981	July 1981–June 1982	July 1982–June 1983	July 1983–June 1984	July 1984–August 1984
All applications for contract carrier	16	27	28	37	43
New carrier applications for contract authority	3	12	10	13	22
New carrier applications for all types of authority	11	43	45	50	60

Based on eight months' actual data, projected motor carrier tariff filings for fiscal year 1984 are 1,100,000. This estimate may be conservative, since we anticipate a further increase in filings as a result of the Commission's action in Ex Parte No. MC-170, Short Notice Effectiveness for Independently Filed Motor Carrier and Freight Forwarder Rates, which became effective on June 25, 1984. In that proceeding, by decision served May 23, 1984, the Commission adopted final rules reducing the notice period for motor carrier and freight forwarder independent rate filings from 30 days to 1-day's notice for rate reductions and 7 workdays' notice for rate increases.

The projected total for motor carrier tariff filings in fiscal year 1984 does not show as substantial an increase over fiscal year 1983 as has been the case in prior year comparisons. There may be several reasons for the lesser increase. This year's total does not include any contract carrier filings, since the Commission removed the tariff filing requirement for motor contract carriers by its decision in Ex Parte No. MC-165, Exemption of Motor Contract Carriers from Tariff Filing Requirements, which became effective September 28, 1983. In addition, it appears that motor carriers are not publishing as many different rate discount provisions as in the past several years. The upturn in economic activity, which has increased demand for motor carrier service to some extent may have lessened the need for carriers to publish special discounts to attract new business. While competition remains strong, the carriers, in many instances, are placing more emphasis on such features as improved and specialized service, rather than discounting, to obtain new traffic.

For fiscal year 1984, approximately 60,000 independent rate actions are projected, based on six months' actual data reported by the major rate bureaus. As indicated earlier, we attribute the reduction in independent actions to the fact that many of the major motor carriers are no longer publishing their independent rates through the rate bureau process. A number of carriers are now publishing individual tariffs, setting forth various discount provisions and individually negotiated rates. As a result, the number and variety of price-service options available to shippers as a whole are dynamic and changing.

The Commission has also begun to facilitate intermodalism by its actions in such cases as Ex Parte No. MC-156, Motor Carrier Operating Authority—Railroads, in which we eliminated the "special circumstances" doctrine, which restricted grants of authority issued to railroad affiliated motor carriers to performance of service auxiliary or incidental to a rail movement, unless special circumstances justified the issuance of unrestricted authority. Our decision was affirmed by the United States Court of Appeals for the Fifth Circuit in January of this year. In addition, in Ex Parte No. 438, the Commission eliminated the requirement that a railroad applicant must demonstrate "special circumstances" to acquire motor carriers whose operations are beyond those auxiliary or supplemental to the railroad's operations. This decision was served on July 27, 1984.

FINANCIAL CONDITION OF MOTOR CARRIER INDUSTRY

As I mentioned earlier in our statement, there has been a substantial improvement in the motor carriers' financial performance, paralleling the turnaround in the economy. This is indicated by the ICC's latest published earnings data for the industry.

A. Latest Earnings Data.—The nation's largest trucking companies reported improved revenues, earnings and traffic volume for the first quarter of 1984, compared to the first quarter of 1983. Also, substantial improvements were reported for the twelve months ending March 31, 1984, as compared to the same of 1983. Attached as an appendix is a report comparing earnings of the 100 largest moter carriers of property (excluding two United Parcel Service carriers) for the quarter and twelve months ending March 31, 1984, with the corresponding periods in 1983.

A comparison of the first quarter results shows that:

Operating revenue increased 13.7 percent to nearly $4.1 billion.

Net carrier operating income increased 15.3 percent to $84.8 million.

Net income rose 4 percent to $42.2 million.

Revenue tons hauled increased 9.7 percent, reflecting the continuing recovery in the Nation's economy. This is the third consecutive year-to-year quarterly improvement in traffic volume.

Of these 100 carriers, 83 reported increases in operating revenues, 54 reported improved net carrier operating income, 56 reported improved net income, and 79 reported increases in tonnage hauled.

A comparison of the results of the 12-month periods indicates that;

Operating revenues increased 10.1 percent to $16.7 billion as revenue tons hauled rose 5.9 percent.

Net carrier operating income increased substantially, by 95.9 percent, to $688.4 million.

Net income more than doubled, rising 100.2 percent to $389.8 million.

The operating ratio (ratio of operating expenses to operating revenues) decreased (improved) to 95.9 percent from 97.7 percent.

Rate of return on shareholders' equity substantially increased to 12.37 percent from 6.69 percent.

B. Recent Bankruptcies and Cessation of Operations by Motor Carriers.—Despite this substantial improvement in the industry as a whole, some individual motor carriers are experiencing financial difficulties. This is to be expected, of course, as motor carriers make the transition from a protected economic environment to a competitive environment. Moreover, it appears that much of the financial difficulty was caused by the economic recession from which the Nation is now emerging. Most significantly, it should be noted that in the meantime, service to shippers has not suffered, since the reforms of the Motor Carrier Act have enabled other carriers to meet their needs.

The following is a list of large motor carriers which have recently either filed for bankruptcy or have ceased operations:

LATEST AVAILABLE ANNUAL REVENUES

	(Thousands)
Illinois California Express—Filed for bankruptcy, Chapter 11, April 1984.	$94,602
Interstate Motor Freight System—Filed for bankruptcy, Chapter 11, April 1984; Ceased Operations, May 1984	226,673
IML Freight, Inc.—Filed for bankruptcy, July 1983; Ceased Operations, March 1984	133,100
Mason and Dixon Lines, Inc.—Filed for bankruptcy, March 1984, Chapter 11	158,006
United Trucking Service—Filed for bankruptcy, Chapter 11, November 1983	29,836

	(Thousands)
Horn Transportation, Inc.—Filed for bankruptcy, Chapter 7, Ceased Operations, October 1983	4.613
Branch Motor Express Co.—Filed for bankruptcy, Chapter 11, with intent to liquidate assets, August 1984	120,883

RATES

With regard to the collective ratemaking process, our final decision in Ex Parte No. 297 (Sub-No. 5) established new requirements and standards for motor rate bureaus as a condition to continued antitrust immunity. The bureaus must now adjust to the new ratemaking environment with limitations on single-line voting;[3] limitations on discussion and bureau control over whether and when independent action, zone, or released rate proposals should be docketed; higher quorums; item-specific proxies; detailed minutes of all meetings where tariff items are discussed; and advisory and confidentiality restrictions on rate bureau staff.

The bureaus have submitted revised agreements to conform to the Motor Carrier Act and our decision in Ex Parte No. 297 (Sub-No. 5). The Commission has been analyzing the amended rate bureau agreements and seven general commodities rate bureau agreements have been provisionally approved. In each of these cases, the rate bureaus were required to file a revised agreement conforming with various conditions specified in the Commission's decision.

In addition, the National Small Shipments Traffic Conference, Inc. and the Drug and Toilet Preparation Conference, Inc., supported by the National Industrial Transportation League and the Department of Justice, petitioned the Commission for the withdrawal of antitrust immunity for collective ratemaking by motor carriers of property for rates on shipments under 1,000 pounds. According to the petition, continued antitrust immunity for collective ratemaking on these shipments is inconsistent with the transportation policy of 49 U.S.C. § 10101(a). Specifically, petitioners alleged that there is little effective competition for shipments below 1,000 pounds and that, under these conditions, collective ratemaking results in the imposition of unreasonable rates, allowing bureau members to derive the major portion of their profits from revenues on small shipments.

In Ex Parte No. MC-172, by Notice of Proposed Rulemaking, served October 5, 1983, the Commission solicited comments on whether antitrust immunity should be withdrawn with respect to rates on shipments under 1,000 pounds. In addition, the Commission requested comments on whether 1,000 pounds or some other level is the appropriate point for defining small shipments in the context of the proposal. Finally, comments were requested on the question of whether antitrust immunity should be withdrawn from any other area of motor rate bureau activity or should be withdrawn altogether. As you know, in a report issued in 1983, the Motor Carrier Ratemaking Study Commission recommended complete elimination of antitrust immunity for collective ratemaking for all rates, for freight classification and for related activities in the motor carrier industry.

Following issuance of the notice of this proceeding, motor carrier rate bureaus, which opposed the proposal, took the matter to court and sought to have the proceeding enjoined as plainly in excess of our statutory authority. That request was denied as premature in *American Trucking Ass'ns.* v. *Interstate Commerce Commission,* No. 83-3531 (D.D.C. Jan. 3, 1984). Subsequently, comments were filed in the case by more than 60 parties.

Because of the importance of the issues in Ex Parte No. MC-172, the Commission held oral argument on June 26, 1984. The arguments presented there as well as the written comments previously filed were given full consideration before the Commission voted in this matter at an open conference on August 9, 1984. The Commission decided the record would not support withdrawal of antitrust immunity for collective ratemaking and voted to deny the petition.

OWNER OPERATIONS AND THE MOTOR CARRIER ACT

As you may recall, in early 1982, the Commission issued a policy statement in Ex Parte No. 122 (Sub-No. 2), Lease of Equipment and Drivers to Private Carriers, to permit owner-operators and others not possessing ICC authority to lease both equipment and drivers directly to private carriers or shippers. In essence, the Commission's new policy eliminated a prior presumption that any "single-source" lease (i.e., leases to private carriers of equipment and drivers from one source) constituted for-hire carriage. Under the new policy, the Commission will focus on control, responsibility, and the performance of key organizing and management functions of a transportation service in determining the type of service being performed. Equipment and drivers leased from a single source to private carriers or shippers are presumed to be engaged in legitimate private carriage provided the terms of the lease and the actual practices of the parties satisfied certain minimum condition established for such leases. The proceeding was challenged in court, however, and the Commission's revised policy was stayed pending judicial review.

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[3] The prohibition against discussion or voting on single line rates, subject to specific exceptions, took effect as scheduled on July 1, 1984. See 49 U.S.C. 10706(b)(3)(D).

On October 11, 1983, the Eleventh Circuit affirmed the Commission's policy statement in Nos. 82-5247 and 82-8133, *Ryder Truck Lines, Inc.* v. *United States,* but the stay remained in effect pending the disposition by the Supreme Court of appellants' petition for a writ of certiorari. On April 2, 1984, the Supreme Court denied petitioners' request for review of this proceeding and, on April 6, 1984, the Eleventh Circuit dissolved the stay. Accordingly, the new policy is now effective. Consequently, owner-operators may enter into lease agreements directly with shippers or private carriers, provided the specified criteria are met.

To be presumed legitimate private carriage, shippers utilizing the direct services of owner-operators and other unauthorized persons must maintain control over the transportation service and perform all key managerial functions. Owner-operators are not required to relinquish their independent status to enter into lawful private carrier lease contracts. Generally, the same requirements applicable in the regulated sector are used to judge the legality of the arrangements. The major difference is that shippers are not subject to the Commission's lease and interchange regulations; bona fide agreements between owner-operators and private carriers are exempt from ICC regulation.

A series of commonly asked questions and answers and a summary paper on leasing were prepared and distributed by the ICC's Small Business Assistance Office. That Office also designed and presented several programs explaining the revised private carrier leasing policy before independent trucker groups in Baltimore, Maryland and Charlotte, North Carolina and before a national shippers association in Washington, D.C. The programs were well received and well attended, and the Office was asked to repeat the program for the benefit of additional owner-operators. Plans are under way to conduct additional seminars for other owner-operator associations across the country.

On February 21, 1984, the Commission issued a Notice of Proposed Rulemaking in Ex Parte No. MC-43 (Sub-No. 14), Lease and Interchange Regulations (Master Leases). Under the proposal, the existing leasing rules would be modified to (1) allow the use by motor carriers engaged in trip leasing of a "master" lease covering more than one unit of equipment so long as such lease complies with all of the provisions of the leasing rules: (2) require that a copy of the "master" lease be carried in the equipment while it is in the possession of the lessee; and (3) allow required receipts to be transmitted by mail, telegraph, or other similar means of communication. When a lessor transfers equipment to a lessee on a trip lease under existing regulations, the lessee must prepare and execute a receipt for the equipment at the transfer point. Potential benefits of implementation of this proposal include reduced deadheading, increased availability of trip leasing, and a generally more efficient and economical method of operation. Comments filed in April of this year are now being analyzed. A final decision should be issued this month.

In another proceeding, MC-43 (Sub-No. 15), Elimination of Thirty Day Leasing Requirement, the Commission has proposed the elimination of the current rule that equipment be leased for a minimum of 30 days when operated by its owner. If approved, owner-operators would be afforded an opportunity to negotiate a lease for the precise length of time their services are needed, thereby eliminating occasional nonutilization of equipment during a thirty-day period.

ENFORCEMENT

On July 17th of this year, the Commission held a conference to establish a new enforcement policy which identifies a "high emphasis" group of violations which will receive the greatest allocation of enforcement resources by the Commission's Office of Compliance and Consumer Affairs (OCCA). The high-emphasis enforcement categories include violations in the areas of:

Antitrust; Ethics; Fitness/Safety; Household Goods; Illegal lumping; Insurance; Kickbacks; Overcharges/duplicate payments/COD; Owner-operator problems; Unauthorized passenger carrier operations; and Weight bumping.

Under the new policy, the allocation of enforcement resources to violations not included in the specified categories will reflect a reasonable anticipation of public benefit, and OCCA's complaint experience will be viewed as one indicator of public need. Moreover, OCCA has been directed to allocate resources sufficient to address infractions whenever the more serious, high-emphasis violations do not receive adequate attention through complaint-induced activities.

The new policy has been designed to guide OCCA in the effective utilization of Commission resources in furtherance of the ICC's overall policy goals, as well as those of the National Transportation Policy. Involved in this approach is a pro-market enforcement mandate which stresses marketplace solutions and de-emphasizes reliance upon federal intervention whenever possible.

This concludes the Commission's remarks on the implementation of the Motor Carrier Act of 1980.

I will be pleased to answer any questions you may have.

Mr. TAYLOR. And now if you would like, I would be happy to respond to any questions, although I do believe Commissioner Gradison would like to make a statement.

The CHAIRMAN. I have some questions, but I think I'll take Heather's statement first, and then ask them of both of you.

Heather.

Ms. GRADISON. I fully support the Commission's statement on the effects of the Motor Carrier Act of 1980. The Commission has stated in its testimony today that the resurgence on the economy in the trucking industry has continued since your last oversight hearing on motor carriers, and that a continued strong economy should further benefit our more free and competitive trucking industry, as well as other transportation modes.

I offer the following personal comments on the future direction and need for economic regulation of trucking. We will soon be moving into the fifth year since the new Motor Carrier Act was signed into law. This act and other regulatory reform measures in transportation set into motion a reevaluation of customary shipper and carrier relationships. The result of this reappraisal is a more competitive and efficient transportation industry, delivering benefits to the motor carrier industry, shippers, and consumers.

However, the transportation regulatory reform measures of 1980 did not completely deregulate surface transportation, and even after 4 years of implementation by the ICC, there are still areas of motor carrier regulation where the Commission has the discretion, under the Interstate Commerce Act, and needs to pursue further administrative deregulation.

Further administrative deregulation and simplification of motor carrier regulation is important to carriers and shippers, and also allows the Commission to use its limited resources in areas that need regulatory attention. For example, later this week, the Commission will vote in an open conference on two significant proceedings which could simplify and expedite Commission regulation of trucking finance transactions and allow motor carriers, owner-operators, and freight forwarders to fully participate in the provision of deregulated TOFC/COFC service.

In Ex Parte No. 55 (Sub-No. 57), which is the Exemption of Transactions Involving Certain Motor Carriers of Property, the Commission is proposing to establish a class exemption for motor finance transactions subject to ICC regulation. In Ex Parte No. 230 (Sub-No. 6), the Commission will finally consider extension of the TOFC/COFC exemption to other than rail-owned motor carriers providing this service. In other words, we complete the process that was begun 5 years ago.

In addition, as the Commission's testimony at this hearing indicates, we are promising consideration in the immediate future of leasing rule changes to give carriers and owner-operators greater operational flexibility. These cases are docketed as Ex Parte No. MC-43 (Sub-No. 14), Lease and Interchange Regulations (Master Leases) and Ex Parte No. MC-43 (Sub-No. 15), Elimination of Thirty Day Leasing Requirement.

An area also overdue for action is the administration of granting temporary and emergency temporary authority. As Congress directed, the ICC must make these procedures consistent with the more liberal permanent entry provisions of the Motor Carrier Act of 1980.[1] It is taking us a long time to get there.

Mr. Chairman, there are other areas of the existing economic regulation of trucking that should be changed but lie outside our jurisdiction, as in the case of uniform State regulation, or are not within our discretion to change under the Interstate Commerce Act. After reviewing 4 years of experience under the Motor Carrier Act and other reform legislation, I believe that in most of these remaining regulated motor carrier areas, there is a lack of need for continued ICC regulation to protect the public interest. Regulation of motor carriers by competitive transportation markets adequately protects the public interest.

I would only add that any future package of motor carrier deregulation legislation must deal directly with the lack of reasonable State uniformity in regulation and State actions which burden interstate commerce. While the direction of ICC trucking regulation is, consistent with the law, to minimize unnecessary regulation by administrative means, we need the assistance of Congress, through legislation, to fully relieve the industry and shippers of the burden of needless but required regulation. In turn, the ICC will be relieved of requiring enforcement of these needless regulations.

I fully support further motor carrier deregulation legislation, and thank you for the opportunity to submit this statement.

The CHAIRMAN. Heather, right at the end of your statement, you touched upon a point—and this is the State regulation of what, of course, they call intrastate commerce solely, and what those who are regulated are saying, if that is intrastate, it is so tertiary it is really interstate.

What do you want? Should we just preempt? Do we pass a law that absolutely says the States cannot regulate trucking at all? What do you suggest?

Ms. GRADISON. The Staggers Rail Act provides for certification of the States to comply with the Federal standards. The Bus Act preempts the States in most instances after a State review.

I think that there is an opportunity for a middle ground, such as was found in the Bus Act and the Staggers Act.

The CHAIRMAN. Many of the States don't think the Bus Act was a middle ground. They think if there was ever a case of Federal preemption, that was it.

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[1] H.R. Rep. No. 97-334, 97th Cong. 1st Sess. 42 (1982) and S. Rep. No. 97-411, 97th Cong. 1st Sess. 25 (1982).

Mr. **Taylor**. If we are going to go ahead and end trucking regulation completely, Mr. Chairman, it seems to me that the States have to be consistent, and we may have to get into preemption. I think that is a dirty word as far as the States are concerned, but there may be no other alternative. We cannot have a deregulated environment at the Federal level and a heavily regulated environment at the State level.

It is my understanding that the Oregon Commission is now engaged in a grand pursuit of carriers that are exceeding their authority. Here we are in a deregulatory mode, and in your own State, the State Commission is doing something that is really contrary to where we are. And I just don't think that can be permitted.

The **Chairman**. In some States, Congress has to act from time to time. We did it with lengths and weights in the barrier States, and we finally said you just can't have that in a system of interstate commerce.

Mr. **Taylor**. I agree.

The **Chairman**. But, Reese, let me ask you this. Your decision on MC–172 on antitrust immunity was unanimous. And the argument was that the record was not sufficient to justify going ahead.

I am curious. Was the record not sufficient, or is the law not sufficient? Do you think you have the power, in and of yourself, to eliminate collective ratemaking if you want to?

Mr. **Taylor**. Well, let me state my own view on that. I think insofar as the record is concerned, my problem was with the 1,000 pounds. I really pleaded with the NASSTRAC people to come in and give us some evidence of that being a reasonable breakpoint as opposed to just being arbitrary and capricious, a number pulled out of the air, or give us some other breakpoint. And we never got one. There is nothing in that record that really clearly establishes 1,000 pounds or any other point.

That, then, gets you to the question of can you remove all immunity? I think we had the authority to conduct the proceeding. I don't think there is any question about that. Judge Green apparently agreed and issued a decision to that effect when an effort was made to enjoin us from going ahead with the proceeding.

I think there is a serious question, at least in my mind, as to whether or not, we could remove all immunity, which is the thing the Ratemaking Study Commission got into. We have heard an awful lot from Congress about this. About 35 Senators and 50 Congressmen, expressed their feelings to us that if you're going to remove all immunity, that is something that Congress ought to involve itself in.

And I think that is an arguable issue. I don't think you could really, at this point in time, come down squarely and say yes, we clearly have the authority, regardless of what has been said, to totally remove it; or no, we don't. I really think the better way to go about all that is to let Congress take the final action.

We want to create the environment for deregulation next year, and instead of inflaming everybody on the House side, I simply felt let's let Congress address this thing. They are going to next year, I am sure. And I felt that maybe discretion was the better part of valor. I believe it should be removed; I want to make that clear.

The **Chairman**. In the last several years, you have been very clear at these hearings. In fact, I am going to quote a couple of your statements from last year. You have been very clear about what you think we ought to do.

Mr. **Taylor**. That is right.

The **Chairman**. And I am quite sure that if you administratively eliminated collective ratemaking, you would get yourself a lawsuit as to whether or not you had the power to do it.

Mr. **Taylor**. No question about it.

The **Chairman**. But you do think, given a proper record, you would have the power to do it at 1,000 pounds—or if not 1,000—at some rational breakpoint.

Mr. **Taylor**. I think we are on safer ground if we do a piece of it instead of all of it. And we could have done a piece of it, and I think defensively so, if we had had any kind of a decent record that established a breakpoint of something less than 1,000 pounds. And I asked for anything—500 pounds, or maybe size and weight, volume, whatever. Give us any kind of a breakpoint that really makes sense and defend it. But there is nothing in that record that defends 1,000 pounds or anything else.

The **Chairman**. Clearly, in this case, the Commission totally agreed.

Heather, do you want to comment on this particular point?

Ms. **Gradison**. I think that the Commission has the discretion to review the Rate Bureau agreements, and that if we were to choose to eliminate the antitrust immunity, that would be the vehicle to use rather than a blanket elimination of the immunity. And we will be looking at these agreements again from time to time. I don't know what the result will be, but hopefully it will be given closer scrutiny next time.

The **Chairman**. Well, you will be looking. And the chairman is right. I think next year, Congress is going to go at this. We are done with the 5 years; we are into 1985; we are going to look at it again, and clearly, the attitude of a great portion of the trucking industry is not what it was when we deregulated. You have got a whole new set of circumstances and you have companies that did not exist that are thriving, and you have got some that have gone bankrupt. In that sense, it is not unlike airline deregulation.

Mr. **Taylor**. Correct.

The **Chairman**. And today, my hunch would be, with only United having supported airline deregulation in 1978, I doubt that you could drag the airline industry back to regulation, even though they fought it tooth and nail when we went into it.

Mr. **Taylor**. I don't know anybody in the aviation industry that favors it.

And Heather is right. The case-by-case approach we can do, and I think that is clearly defensible, and nobody really argues with that. I think that is clear as anything could be. It is whether you go beyond that and do it for a class, and there I think we have some problems unless we have a far better record than we had in that proceeding.

The **Chairman**. I don't know if you caught Fred Kahn's statement within the last 6 months on one of the morning shows about airline deregulation. Of course, he had a great hand in the airline deregulation part, and strongly supported truck deregulation. And they said, "But, Professor Kahn, a number of the airlines have gone bankrupt." And he said, "Precisely." He said, "That's what we intended."

Mr. TAYLOR. That was part of the shakeout.

The CHAIRMAN. That is right. He wasn't surprised at all.

Reese, let me quote from last year. Here is what you said: The Commission is "engaged in the absolute sham of motor carrier regulation for regulation's sake. It is nothing more than a monumental paper-shuffling operation. There is no redeeming public benfit involved."

Are those roughly still your same sentiments?

Mr. TAYLOR. They certainly are. It is just unbelievable. Why anybody would take any comfort in what we are doing down there, be it the Teamsters or the ATA or the trucking industry or anyone, I really don't know; because that is exactly what it is, Mr. Chairman I think the problem is, we can't legally end it ourselves. Congress is going to have to do that.

The CHAIRMAN. I sense that from both your and Heather's statement, there are some things you must do because the law says you must do them, even though you think it is an insanity to have to do them.

Mr. TAYLOR. Right. That is exactly where we are, and hopefully we have been responsible enough to create the environment so that next year Congress really can seriously consider complete deregulation of the trucking industry.

The CHAIRMAN. If we further consider it, and I think we will, to what extent, if any, do you believe that continued liability standards for loss and damage of freight would be needed; and second, has the ICC taken any action since the enactment in 1980 to revise or alter the liability standards?

Mr. TAYLOR. Well, I am aware of some general concerns in this area, and certainly the matter of loss and damage for shippers, I think, is going to have to be looked at extremely carefully and probably given some further study as Congress prepares to consider additional legislation.

There are some common law remedies, to be sure, but I think that an argument could be made that at least some retention of the statutory protections might be in order—for such matters as venue and statute of limitations periods. I really cannot give you a more definitive answer at this point in time, but I think it is one of those things that we ought to look at.

In terms of what the Commission has done, at least in the motor carrier area, I am not aware of any changes that we have made. I don't think we have since I have been at the Commission.

The CHAIRMAN. When we get into our hearings next year, this is a particular area where we are going to need your expertise, because no matter how far we go toward deregulation, there are some areas where the public is going to have to be protected. I think this is one, and I am not quite sure what the form ought to be.

Mr. TAYLOR. Well, I agree. We talked about consumer type protections in the household goods area and that is another area.

But I think one of the things we are going to have to do between now and next year is to really look at this matter of shipper loss and damage claims, and I intend to do that. Hopefully, we will be able to give you some of our—well, I will not call it expertise—but at least our opinions and ideas about the matter when you are ready to have them next year.

The **Chairman**. Well, let me give you a chance to respond to some of your critics, and you don't live in a vacuum down there; you are fully familiar with them. This is the argument that you have gone way beyond anything Congress ever intended in terms of truck deregulation. You have drawn that statute beyond anything Congress ever imagined, and you are ill founded and wrong in what you are doing.

Mr. **Taylor**. Well, I could not disagree more. You know, our record in being sustained in court clearly proves that that is simply not the case. There are a number of people who would still like to turn the clock back, and as far as the Commission is concerned, nobody there wants to do that. I think we have a good record on deregulation. I think we have done it responsibly. We have even done it with a measure of gradualism. I don't think we have pulled the rug out from under anybody.

I am very proud of what the Commission has done since I have been there, and I think our record speaks for itself. I would not give the critics an inch—not on that one.

The **Chairman**. You have done pretty well in court, by and large, and if that isn't an objective standard as to whether you have been within your bounds—you, by and large, have had pretty good success.

Mr. Chairman, Heather, I have no more questions. Commissioner Lamboley, good to have you with us today. We will be seeing you more often.

Mr. **Taylor**. Thank you, Mr. Chairman. Very glad to have been here.

The **Chairman**. Thank you very much.

Next, we will take Tom Donohue, the new executive vice president and chief executive officer of the American Trucking Associations.

Welcome. We are delighted to have you in your new capacity before this committee.

STATEMENT OF THOMAS J. DONOHUE, EXECUTIVE VICE PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. **Donohue**. Thank you very much, Mr. Chairman. I enjoyed very much listening to the Chairman of the ICC, and I look forward to our discussion.

As you know, Mr. Chairman, this is my first major public appearance on behalf of ATA. I have been there for some 8 weeks, and if I had had my druthers, this hearing would have been after our convention which happens at the end of this month. But the hearing is today, we are prepared, and I look forward to our discussion this morning.

I have prepared a detailed statement which I have submitted for the record. I would like to make a few summary comments, and then we can get to your questions. After listening to the first witnesses, I believe it should be very interesting.

First, let me say that if we look at the economic and financial picture of the trucking industry, we have a mixed bag. There are a number of charts contained in my testimony that give you that specific indication. You can make conclusions in either direction, depending on your pleasure.

But on the positive side, the trucking industry is coming out of the major recession, finally. Interest rates are lower and that helps capital investment, and we have seen that the truck manufacturing firms are having a big upturn in their sales. Industry revenues are up, but profits are very spotty. There are a number of reasons for the confusing profit picture which can be traced not only to this industry but also to others.

There are some productivity increases on the horizon. Many of the larger carriers are prospering, and many new carriers are entering the market at a vigorous rate.

On the negative side, bankruptices continue. In the first 2 years alone, we had 350 major bankruptcies in the industry that lost 67,000 jobs and $3.2 billion. Now, I happen to be a pragmatist, so I don't read that number per se. One has to ask, "Where are those jobs?" "Where are the people that worked in those industries?" and "Where is the freight?" We know it has been picked up by other companies, that there have been acquisitions, and that some people have gone back in the business and so on. But bankruptcies are a disrupting force which we should look at carefully.

In addition, Mr. Chairman, we provided in our formal testimony some Z score analysis which is very preliminary. It does indicate that there will be significant bankruptcies in the industry in the coming months and years. And when, working with the committee, we are able to do something about the ERISA problem, there will be more of them than we would like to see.

Now, continuing on the negative side, the profitability of the industry is below what we might consider "normal". A number of people that helped me prepare this testimony have asked what is adequate and what is normal. I think profitability is that which allows a company to plan for tomorrow, instead of just to survive for today.

Thirty percent of our industry was unprofitable in 1983. The statistics just released yesterday show that the first half of 1984 was worse than the first half of 1983. We can argue the numbers, and I can make a case on either side as to why that might have happened.

But simply put, the picture is very blurry. The industry has been through what I call a quadruple whammy. Deregulation and the manner in which the ICC has interpreted, or acted on, some deregulation has given us some concern. The massive recession, which skewered all of the activities in every industry and loused up the marketplace, and the changes in the automobile industry and the housing industry and so on, really affected trucking.

Then, there was a huge tax increase at the State and Federal level. As you know, we are having problems, particularly in the State.

And then finally, it was the failure of the productivity increases to materialize as quickly as did the taxes following STAA. We got those on Monday, the day after the bill, but we haven't received the productivity increases.

Let me move very quickly to say that there are five things that this committee can do to be helpful. First, I can take the full 5 years to look at the effects of deregulation because of the recession and the other matters I suggested.

Second, we considered the disparity in effective corporate income tax rate between ourselves and the competing modes. There are some data in the testimony that show that we are just in really bad shape. At the same time, we look at the discriminatory and burdensom State taxes, and we need the committee's help in that regard.

Third, we ask you to look at the impediments to productivity. There are a lot of things we need to do in access that we have discussed with your staff.

Fourth, we need to work together to find an equitable and a fair solution to the ERISA problem.

And, fifth, we need to work for a comprehensive safety program which gives the Government more authority than you might otherwise think we would be willing to offer.

And finally, Mr. Chairman, we want your help in reorganizing DOT. Some material in our testimony that shows that, very simply, the motor carrier industry handles more freight, travels more miles, generates more revenue, pays more taxes, and employs more people than any mode in DOT and we haven't got anyone there advocating our position. And as you will see in my testimony, there is case after case where other modes are discussing our well-being, and I think we need to do something about that.

Thank you, Mr. Chairman. That concludes my remarks. The formal testimony has been submitted, and I look forward to our discussion.

The CHAIRMAN. I have a feeling, Tom, if you are as effective as you are after only 8 weeks, you may not need anybody down at DOT. You are going to do very well on your own.

Let me ask you a question I cannot solve. Everybody that comes before this committee, the Chairman did it, you just mentioned it—talk about State regulation and the disparity and the problems they are causing. And yet the very groups that will come here, including the American Trucking Associations, and complain about it, then have members—in some cases they have come here and testified—who then go and make some filing with the State public utility commission, asking them to give them some kind of a preference which argues against the very thing that they have come here and asked the committee to do.

Mr. DONOHUE. Mr. Chairman, you are going to find in my remarks a great deal of candor, which might not always ingratiate myself to my industry. Let me clearly say that the preemption of States in any way is constitutionally difficult, and we know that. And at the same time, those involved in commerce who that are competing for a position in the marketplace and marketshare will take every opportunity under the law to protect, advance, and enhance their position.

As a result, we come here and petition on behalf of our members for relief from very, very difficult State taxation questions that in most ways conflict with one another and cause us great hardship; at the same time, if we can make a deal in the States, or if an individual company or an individual group of companies can enhance their economic position, they will move to do exactly that. And that is true in every industry in this country.

But we need to look at the macro-picture and evaluate State taxation from the four or five basic parameters of sound taxation, it is a mess.

The CHAIRMAN. Would you like to have Congress pass for the trucking industry roughly the same preemption that we did for the bus industry?

Mr. DONOHUE. Yes, sir, we need some type of tax preemption.

The CHAIRMAN. That, for all practical purposes, is total preemption. The States can have some argument. You can have some hearings before the PUC, but if the ICC has finally said no, that is preemptive, and that is the end of it.

Mr. DONOHUE. Well, failure to do that brings you to the circus that we now have. The tax relationships and the changes that have been made in a dozen States in the last few months, have created a serious problem because the States have serious economic problems. The States go to the source of least resistance to get their funds. And if they are preempted from going after the railroads and the buses and the airlines and everyplace else, there is only one place to go—trucks.

You will find, sir, that the new ATA is going to raise more hell about taxes than we have in the past.

The CHAIRMAN. Federal and State, I take it.

Mr. DONOHUE. I am glad you mentioned that.

The CHAIRMAN. I did not think you were overlooking us.

Let me ask you, when you talk about industry profits, and industry profits being low, one, how do you compare with other industries; and two, when you use the word "industry," how do you mean it?

Mr. DONOHUE. Well, the way we generally use the word "industry" is the certificated carriers reporting to the ICC. For example, you will see in our Z score analysis, there are only about 2,500 of the class I and class II carriers, whereas there are probably 3,500 actually in those categories, but the difference didn't report. So we use the profits of reporting carriers.

The important thing to recognize as you look at profits is that there have been historical ways of looking at them. The return on equity numbers are really quite a little bit better than other basic measurements that the industry has used.

The CHAIRMAN. Why is that do you think?

Mr. DONOHUE. Well, I think when you look at the equity questions, you have to look at what has happened in the consolidation of industries and how the bigger firms are doing. You have to look at what has happened in cutting back significantly in efficiency and so on and so forth. You see that first in the return on equity.

I think when you compare us to other industries, you will find that a traditional economist would say that the service industry has moved out more quickly. And, by the way, I didn't avoid comparing us with the service industries. The data that we wanted to have were not available, which is noted in a footnote. But when you use the standard manufacturing industries, we lag behind by a third to a half.

In part, it is because we are a reactive industry. We have to wait for others to get well for us to get well. Until we can start moving more goods for companies that are doing more business, we don't move back as quickly. And then, of course, in all candor, we have spread out our base. There have been probably 10,000 new firms that have come into the business, although there is no way of measuring how many have stayed. When you spread the base in that direction and spread it in the other direction to the major companies that are consolidating economic power, which is quite appropriate in our system, you find that the people in the middle, that most often report the ICC, are the ones that are hurt.

The CHAIRMAN. Tom, how much of your problem are the access restrictions placed on the big trucks?

Mr. DONOHUE. Mr. Chairman, if you were to look at the report that lists all the States, you will find 10 places where we are really hurting. When you go to the State of New York and you can only go a half mile off the thruway, you have got real serious trouble. Concerning the access questions, the original road system—the national network system—led us to believe we were in great shape. But when we turned around and woke up the next day, we decided differently. In the New England States, in the Northeastern States, and particularly the Southern States where the great economic growth is expected, half of the access disappeared.

And you know, when the deal was made, the increased taxes were there, but the lack of the productivity gains hurt us in three ways: No. 1, we did not have the access; No. 2, while we weren't getting access, we, therefore, did not go out and make any decisions in terms of buying new equipment; and No. 3, the DOT, without an advocate for us, is still unclear about 12-foot lanes, even though busses have been driving up and down 12-foot lanes since 1976.

The CHAIRMAN. I think your complaint is valid. I am not sure that those of us in Congress, when we were dealing with that act, realized the reaction we would have from some of those States, and I think the fault probably lay in the fact that many of us from the West are used to big trucks, and it has worked out fine; there has been no problem. And so we did not envision the problem and the reaction that came.

Mr. DONOHUE. Mr. Chairman, you will be interested to know one of the things I am really concerned about is the beltway, and I want to tell you why.

While we have lots of accidents on the beltway, we probably do not have any more than other congested thoroughfares. But every day Members of the House and the Senate read about beltway accidents. Now, the same thing happens in the States, in the congested States. But when our Representative are in Congress are about to take up a trucking bill, they remember the truck that overturned and blocked traffic, or maybe kept them in traffic for 2 hours. And it gets awfully difficult.

The CHAIRMAN. There is nothing worse than an adverse congressional experience.

Mr. DONOHUE. There may be, sir, and that might be an adverse experience with Congress.

The CHAIRMAN. Let me ask you about truckload lots, truckload shipments. In your view, is antitrust immunity for collective ratemaking necessary for truckload or larger shipments?

Mr. DONOHUE. Mr. Chairman, let me back into that answer if I might. And I only do this because of my short tenure. We have a policy against further deregulation, and for collective ratemaking.

That policy was put together for reasons of some substance, particularly helping people set rates that do not have the facility to do it, and setting a base from which the free market could function. And, as you know, the rates are set below what is actually done by the rate bureaus.

Since deregulation, the truckload people have done a little better than the less-than-truckload people, and the larger carriers a little better than the smaller carriers. What I am suggesting is that we avoid a debate on the subject for just a short period of time, until a little more data are in for your committee and for our industry to analyze.

And so I would plead two things: No. 1, I am not expert enough to debate between truckload and nontruckload; and No. 2, the few short months between now and when the full 5 years are up will allow me and our industry to gather a little better data, understand each other a little better, and to discuss with you and your staff in some detail where we ought to go from here.

The CHAIRMAN. That is a very perceptive answer. Having been in this business as long as I have and realizing that no bills are going anyplace in the next 2 or 3 weeks, and Congress, I hope, is not coming back in November and December, you are going to have the time anyway. So there is no point in my pursuing an answer any further.

Mr. DONOHUE. Well, thank you.

The CHAIRMAN. I am delighted to have you in your position. I enjoyed the hour we spent in the office, and I look forward to a long and fruitful relationship.

Mr. DONOHUE. Thank you.

Mr. Chairman, if I might, just in closing, thank you and your staff for their help—they have been very, very supportive as I have come into this job. And if I could echo one more time, I would like to work together with you and your staff on these five points, particularly on the restructuring of the DOT. If we do that, sir, we will put together an organization that can help us address the other issues and the questions that you raised, and I look forward to working with you on it.

The CHAIRMAN. Count me in.

Mr. DONOHUE. Thank you very much.

[The statement follows:]

STATEMENT OF THOMAS J. DONOHUE, EXECUTIVE VICE PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS, INC.

INTRODUCTION

I am Thomas J. Donohue, Executive Vice President and Chief Executive Officer of the American Trucking Associations, Inc., (ATA) and I appear here today on behalf of ATA and the trucking industry which ATA represents.

The American Trucking Associations, Inc., welcomes the opportunity to testify at these oversight hearings and to comment on the effects of the Motor Carrier Act of 1980 upon the motor carrier industry and on several other matters affecting it.

The motor carrier industry is an integral part of the national economy. The regulated sector of that industry alone generates gross revenues of $46.5 billion annually. All truck operations, regulated and not regulated, have an estimated gross revenue of $190 billion annually. The industry utilizes over seven million employees. The health and prosperity of the motor carrier industry also has a major effect on other industries, such as steel, oil, truck manufacturers, tire and rubber and glass. But the industry's greatest importance to the economy is in the services it provides as the major mover of goods in the nation. The ATA slogan, "If you got it, a truck brought it," has never been more accurate.

I. EVALUATION OF MOTOR CARRIER ACT REQUIRES THE FULL FIVE YEARS

The Motor Carrier Act of 1980 has had a dramatic impact upon the industry. The views of specific carriers depend largely upon each one's experience in the marketplace. Various carriers, especially some larger and medium-sized, and many of those which transport only truckload freight, may have a positive assessment. Others, such as small to medium general freight carriers, have not.

The purpose of these hearings is to assess the impact of the Motor Carrier Act of 1980 on the industry, giving special consideration to such factors as the recent recession, current economic conditions, new taxes, and changes in pension liability which could not be accurately forecast at the time of enactment.

As the Motor Carrier Act of 1980 passed the Congress, Members indicated that, in their opinion, adequate time be provided for the industry to adjust to the new rules of the game. The Act calls for five years of oversight hearings. In the normal scheme of things, that amount of time is close to expiring. But, the first two years of deregulation were accompanied by two strong recessions, which alone would have affected by the industry very negatively. The business dislocations that inevitably resulted from changing the economic rules have been made worse by these deep recessions. Based on the last two years' experience, the industry may be recovering, but it is simply too early to draw any sound conclusions. More definitive economic data on industry performance will be available in the summer of 1985.

ATA has a policy opposing changes in the present collective ratemaking procedures. We suggest to the Committee that a decision on pending legislation to maintain or alter the system be deferred until a more precise review of the effects of the Motor Carrier Act is completed.

In addition, we are compelled to comment that the implementation and enforcement of existing laws and regulations by the Interstate Commerce Commission (ICC) has been inconsistent with the intent of Congress. In effect, the ICC has unilaterally gone further towards a deregulated trucking industry than the Congress has directed.

With these factors in mind, we respectfully request that a final judgment on the effects of the Act be suspended and decisions concerning additional deregulation be postponed until the summer of 1985.

Motor carrier industry's financial condition

While there were profitability gains in 1983, the financial condition of the motor carrier industry in general continues to be weak. Industry profits remain far too low.

In 1983, following four consecutive years of declining profits in which earnings margins reached an all time low, the class I and II motor carriers reporting to the ICC experienced somewhat improved profits. While the profit growth appeared strong on the basis of percentage gain, the after-tax profit margin amounted to only 2.2 percent. This margin continues the trend of subpar earnings which began in 1979[1] and has continued through the first half of 1984. Thus, in the midst of what is called one of this country's strongest economic recoveries, this basic and vital industry continues to struggle for an adequate level of profits essential to reestablishing financial soundness. Reasonable profits are critical if the regulated industry is to make long overdue investments in equipment and related capital expenditures.

The industry's operating ratio (operating expenses relative to revenues before taxes and interest) in 1983 was 95.9. While this is the best it has been since 1978, it is still higher than those recorded between 1976–1978. These three years are considered by many to be the last of the "normal" years. At that time, the operating ratio ranged from 94.67 to 95.19 (Graph 1). [All graphs appear at end of text].

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[1] In 1979 administrative deregulation of the motor carrier industry was underway.

Net profit margin after taxes (Graph 2) and return on equity (Graph 3) produce the same disturbing picture of insufficient earnings. The motor carrier profit margin of 2.2 percent is paltry compared to that of all manufacturers (Graph 4)[2] and rate of return on equity was substantially reduced during the period 1978 to 1982. Whether the upturn in 1983 can be maintained depends upon the strength of our asset base (Graph 5).

While, the trucking industry's profitability problems are industrywide (both specialized carriers and general freight have seen earnings fall during 1979 through 1982 and improve somewhat in 1983), not all carriers have been affected in the same manner. Many larger carriers were less affected by the downturn and bounded back quicker. On average, the larger the carrier, the better its relative profit performance in both 1982 and 1983 (Graphs 6, 7 & 8). This fact appears to contradict the promise of the 1980 legislation that smaller carriers would gain vis-a-vis their larger counterparts.[3]

In 1982, 40 percent of the individual carriers lost money from operations. While the picture improved in 1983, still 29 percent of the carriers were unprofitable. In comparison, in 1978 only 19 percent of the then existing carriers were unprofitable.

Even this year, with a continuation of the economic recovery, the motor carrier industry continues to struggle for profits. The industry's first quarter 1984 profit margin was 1.11 percent, virtually unchanged from 1.06 percent in the first quarter of 1983. The 1984 first quarter margin was, in fact, a drop from the 1.79 percent margin achieved in the fourth quarter of 1983. Second quarter figures for 1984 show a lower profit margin than in the corresponding period in 1983. The half-year profit margin of 1.93 percent compares unfavorably to the 2.24 percent profit margin for the first half of 1983.

The relevant question remains. What has occurred which has made the motor carrier profit picture so tenuous? It is still too early to separate the effects of deregulation from the effects of the recession. By this time next year, if the economy continues to improve and data remains available, we will be able to better focus on the lasting effects of regulatory reform on the motor carrier industry.

Bankruptcies

In previous oversight testimony, ATA has told this Committee of the numbers of carriers going out of business, filing for bankruptcy or severely curtailing their operations due to an inability to remain profitable. By 1982, the number of such carriers had reached some 350 established firms with $3.2 billion in revenues and 67,000 employees.[4] This trend continued throughout 1983 and 1984 when such established firms as Interstate Motor Freight System, IML Freight, ICX and Mason-Dixon Lines declared bankruptcy. These four carriers alone represented almost $612 million in revenues, employed 10,900 employees and operated almost 6,000 power units. Further, just last month Branch Motor Express of New York City with $100 million in revenues, over 2,700 employees, and over 1,300 power units declared bankruptcy.

Numerous firms continue to barely hold on, perhaps hoping that the overall recovery will eventually improve conditions for them. More likely, they stay in business due to the fear that should they cease operations everything in the company would have to be liquidated to pay the withdrawal liability which would be triggered by their pension plans.[5]

Conceivably one-fifth of the industry—one out of every five motor carriers—is a bankruptcy candidate in spite of the business pick-up. This is based on applying the

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[2] Unfortunately, the Department of Commerce does not provide financial measurements for service industries.

[3] The ICC eliminated the financial reporting requirements of class III carriers immediately following enactment of the Motor Carrier Act of 1980. No comprehensive analysis can be performed for these carriers. It is ATA's understanding that the ICC is about to propose elimination of financial reporting requirements for all motor carriers.

[4] While the freight formerly handled by these carriers is probably still moving by truck, it is impossible to determine how it is moving: regulated or private carriers; new carriers or existing carriers. Likewise, it is impossible to determine how many of these displaced employees found subsequent employment in this or other industries.

[5] The problems faced by the industry from their pension plans are discussed at page 20 of this testimony.

Altman Model,[6] or "Z-Score" as it is commonly called, to predict the likelihood of bankruptcies in the motor carrier industry.[7] (See Table 1, page 9.)

Finally, it should be noted that, during the first four years of the Motor Carrier Act of 1980, almost 10,000 new carriers entered the business. However, the ICC is unable to determine the retention rate of these new entrants. Moreover, few of these companies appear to be engaged in the less-than-truckload general freight business.

TABLE 1.—ALTMAN MODEL OF "Z-SCORE" INDEX OF CLASS I AND II MOTOR CARRIERS FILING ICC ANNUAL REPORTS

	Likely to fail	Uncertain	Apparently secure	Total
Large:				
Revenues greater than $25,000,000	35	36	165	235
Medium:				
Revenues between $5 and $25,000,000	132	103	533	768
Small:				
Revenues between $1 and $5,000,000	256	95	888	1,239
Total	422	234	1,586	2,242

II. THE CHALLENGE OF MUSHROOMING FEDERAL AND STATE TAXES

Federal income tax

Many incentives are built into the Federal Tax structure that encourage industries to improve productivity. These incentives take many forms and are designed for different purposes. Two major incentives—the accelerated cost recovery system (ACRS) and investment tax credit—are designed to promote productivity through capital investment. The idea, of course, is that businesses will reinvest in those capital assets which are the means of their production at a faster rate if appropriate tax incentives are available.

Certainly, these tax incentives have contributed much to the productivity within the transportation industry. Accumulated deferred taxes as a result of these incentives are already a major source of investment funds for the transportation industry, and the percentage of assets financed by deferred income taxes is expected to rise sharply in the coming years.

Unfortunately, these incentives do not benefit all modes of transportation equally. The trucking industry, for example, has not realized the same benefits as other modes of transportation because of the basic nature of its productive assets, i.e., its trucks, tractors and trailers. Trucks and trailers have short useful lives of five to eight years requiring them to be replaced with a greater frequency than rail rolling stock or aircraft.

The ACRS allows more costly railroad locomotive, which might have a 20-year useful life, to be depreciated over the same five-year period allowed for a truck or trailer. Further, trucking companies may receive only a 6 percent investment tax credit on tractors, while railroads receive a full 10 percent credit on locomotives. Tractors represent the trucking industry's largest revenue equipment investment, and, under ACRS rules, are depreciated over three years. Equity would suggest that the motor carrier industry should have the option of claiming a 10 percent investment credit coupled with a five-year tractor life.

The cumulative effect of these inequities is clearly illustrated by the effective corporate income tax rates paid by the railroads vis-a-vis motor carriers. According to a 1983 study conducted by the Joint Committee on Taxation, railroads had the lowest U.S. tax rate, 2.0 percent, while trucking had the highest U.S. tax rate, 40.3 percent, for the period 1980–82. (See Table 2, page 12). Of the rail and trucking companies surveyed, the railroads had over twice the pre-tax income as did trucking companies, yet trucking paid over four times the income tax paid by the railroads. (See Table 2). These rates do not include state income taxes. The motor carrier industry should have tax equity and equality with other industries, and most importantly with competing modes.

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[6] The Altman Model is one of the most widely accepted statistical bankruptcy forecasting tools. It does have some limitations. While it can be used to predict the likelihood of bankruptcies within an industry, it is not the best method for evaluating the bankruptcy potential for any individual company.

[7] The universe of the study is all class I & II motor carriers filing annual reports with the ICC.

TABLE 2.—COMPARISON OF U.S. INCOME TAX RATE ON U.S. INCOME BY TRANSPORTATION INDUSTRY, 1980–82

Industry	1980	1981	1982	1980–82 average
Airlines	3.0	(1)	(1)	(1)
Railroad	10.7	(7.5)	4.1	2.0
Trucking	37.5	46.1	36.9	40.3

[1] Rate not computed on book loss.

COMPARISON OF CORPORATE INCOME TAX RATES BY TRANSPORTATION INDUSTRY, 1982

[Thousands omitted]

Industry	U.S. income before tax	Current U.S. tax expense	U.S. tax rate on income
Airlines	(619,492)	(48,428)	
Railroads	1,689,859	68,523	4.1
Trucking	837,646	309,310	36.9

Source: "Study of 1982 Effective Tax Rates of Selected Large U.S. Corporations," Joint Committee on Taxation, November, 1983.

State taxation and regulation

Historically, the trucking industry has approached problems in state taxation and regulation of its interstate activity with positive solutions which have usually found a cooperating and understanding audience among state administrators and legislators. The willing adoption of new approaches in reciprocity in the 1940's (Multistate Reciprocal Agreement) and the 1950's (Uniform Vehicle Registration Proration & Reciprocity Agreement) among the states stands as a tribute to interstate cooperation fostering growth and development for the maturing interstate trucking industry. More recently, the International Registration Plan, parented by the American Association of Motor Vehicle Administrators in the early 1970's has brought a unified approach to registration reciprocity and tax equity among the states.

In the past four years, however, fiscal constraints and inflationary highway costs have placed financial pressures on the states, resulting in a rapid deterioration of the cooperative spirit that characterized the previous 40 years. New taxes and higher fees, assessed without the benefit of apportionment, have plagued the industry and have lead to a variety of court challenges of controversial state taxing schemes. Within the same four years, new retailiatory tax laws have been enacted in seven states (Delaware, Florida, Georgia, Maine, Oklahoma, Rhode Island and Vermont) and retaliatory taxes have been imposed by three other states (Nebraska, New Hampshire and New Jersey). Similar proposals have been narrowly defeated in the states of Mississippi and Missouri.

Relaxation of economic regulation embraced in both the Motor Carrier Act of 1980 and in actions of the ICC beginning in early 1978 have led more carriers (both private and for-hire) to provide trucking service through a broader geographic area than at any time in the history of the motor carrier industry. The Congressional intent to provide for such expanded interstate service, however, has been thwarted, in part, by these increasingly complex and burdensome state taxes and regulations.

The trucking industry is concerned with the rampant state taxation of its interstate activities. Transportation performed on an interstate basis probably has greater exposure to tax discrimination than any other form of business activity. Congress recognized this danger by providing Federal statutory protections against such discrimination for the airlines (49 U.S.C. 1513) and the railroads (49 U.S.C. 11503). Similar protection has been afforded to the interstate electric utility industry (15 U.S.C. 391).

The motor carrier industry unsuccessfully sought similar protection through the Motor Carrier Act of 1980. In 49 U.S.C. 11503a, Congress granted a limited protection by prohibiting discriminatory property taxes, but not all discriminatory state taxation as the railroad and airline prohibition. As a result, for example, a franchise tax on gross receipts of interstate transportation companies in New York State applies solely to motor carriers.

It is clear, constitutionally, that the Federal government has the interest and ability to protect the free flow of interstate commerce. In our opinion, there should be clear Federal guidance to the states on highway taxes, and there should be clear Federal prohibitions against discriminatory state taxes, embracing the following principles:

Highway taxes, if assessed on a per-vehicle basis against vehicles from another state, should require apportionment;

Highway taxes, if assessed on actual highway use, should have to be assessed in fair relationship to the extent of highway use;

Highway taxes, if assessed on the operations of vehicles from other states, should have to be assessed in a nondiscriminatory manner as contracted with assessments against vehicles from the taxing state;

Non-highway taxes should have to be assessed in a manner that doesn't discriminate against motor carriers; and

Administrative or regulatory fees should be imposed at levels that provide only those revenues necessary to cover the cost of issuing the required indicia.

III. IMPEDIMENTS TO INCREASED PRODUCTIVITY UNDER THE SURFACE TRANSPORTATION ACT OF 1982

The Motor Carrier Act of 1980 provided an opportunity for carriers to expand in areas and markets not previously served. The Surface Transportation Assistance Act of 1982 (STAA) was to have allowed motor carriers to begin to operate more productive equipment on a nationwide basis. Both of these acts were intended to allow motor carriers to operate more efficiently and provide better service. Under STAA, the trucking industry will pay an additional $1.8 billion in federal highway taxes annually. On April 6, 1983, the industry began paying five-cents per gallon additional fuel taxes and a 12 percent retail excise tax on new trucks, tractors and trailers. On January 1, 1984, the industry incurred an increase in the tire excise tax. Finally, on July 1, 1984, the industry incurred another six-cent increase in diesel fuel taxes and substantially higher heavy vehicle use taxes.

The problems of implementation

Although the legislation provides for offsetting net productivity gains because of increased size and weights, delays in fully implementing these provisions have prevented the industry from obtaining such gains. Moreover, because our industry is less able to recover investment costs through tax incentives, the reduced cash flow limits the industry's ability to invest in new equipment.

It was not until June of this year when the Federal Highway Administration issued its final designated primary highway system that carriers knew where they could operate. Unfortunately, even this system is being challenged in the courts. Yet, as noted earlier, the trucking industry has been paying increased fuel and excise taxes since April 1983. As a result of STAA and state highway tax increases, taxes in 1982–1983 were the trucking industry's fastest growing expense item, making it difficult for the industry to take advantage of productivity incentives offered by non-tax legislation.

The STAA set minimum nationwide truck length limits of 48 feet for the semitrailer unit of a truck-tractor-semitrailer combination and 28 feet for the trailer or semitrailer operating in a truck tractor-semitrailer-trailer combination. The states were precluded by the provisions of STAA from prohibiting these units on any highway segment which the Secretary had designated for their use. Additionally, the 1983 Department of Transportation (DOT) Appropriations bill and STAA established a nationwide width standard of 102 inches for commercial motor vehicles.

Two problems have arisen in DOT's implementation of the new width provisions. First, the 12-foot lane limitation for 102 inch vehicles, we believe, was intended to be a general discretionary guideline to DOT. Instead, it may possibly be found to be a mandatory requirement. Secondly, some states have not permitted the 102-inch wide single 28-foot trailers ("pups") reasonable access to loading and unloading points. In both cases we believe it was the intent of Congress to allow DOT, in cooperation with the states, discretion in designating routes for the safe operation of these more productive vehicles. The present uncertainty over access for the new vehicles has limited the utilization of the new units.

The solution

S. 2217, as reported by this Committee on June 6, 1984, entitled the Tandem Truck Safety Act of 1984, would amend the STAA to help ensure the establishment of a safe nationwide route system for the newly-authorized more productive vehicles.

You will recall that ATA testified before this Committee on March 22, 1984, on the safety record of twins. A majority of the research studies comparing the safety of twins to other vehicle types support the safety of twins. Prior to STAA, 28-foot twins had been operating in 36 states and had established a proven safety record. The U.S. Supreme Court on two occasions struck down state bans on twin trailers, and has found that there were no proven special safety or enforcement problems for such vehicles.

S. 2217 would also provide the Secretary with discretionary authority to designate highways with lanes less than 12-feet wide if the Secretary determines the designation is consistent with highway safety. The industry endorses this provision, and believes that the standard is consistent with public safety and should provide more protection than the distinction as to whether the 12-foot lanes in particular segments were "designed" or "intended" to be 12-feet wide.

S. 2217 also allows reasonable access for "pups" to points of loading or unloading. In reality, this will help the industry utilize pups in downtown pickup and delivery, rather than the 45-foot trailer more generally in use. As the Committee report indicates: "Many intercity buses and the typical transit bus are 102-inches in width. These buses have almost universal access for passenger operations, but the STAA failed to make explicit the access guarantee for motor carrier equipment of the same width dimension."

It takes only a few states which do not permit access to points of loading and unloading to frustrate any effort at achieving productivity gains made possible by this equipment. In such cases, carriers are forced to purchase and use different vehicles for pickup and delivery service, thus forcing the rehandling of freight at their terminals. The existence of these restrictions has reduced the effectiveness of twins and has generally depressed trailer sales during this period of uncertainty. Ironically, these restrictions may have also prevented a reduction in truck congestion on local streets.

IV. AN EQUITABLE SOLUTION FOR THE INDUSTRY'S MULTIEMPLOYER PENSION PLAN PROBLEM

The problem

The Multiemployer Pension Plan Amendments Act of 1980 (MPPAA) requires an employer who withdraws from a union-sponsored, multi-employer pension plan for any reason—including a discontinuance of operations—to pay a withdrawal penalty that in many cases equals or exceeds the assets of the company. This withdrawal penalty is designed to compensate the pension plan for the loss of the company's future contributions.

Mortgaging pension benefits over a poeriod of time has been a universally accepted business practice. Paying into these funds over a long period of time makes them practical. Asking a company withdrawing from the plan to assume a sudden responsibility for those unfunded liabilities is impractical and excessive.

The result in the motor carrier industry

The problems created by withdrawal liability have been particularly acute in the motor carrier industry since we are undergoing a major restructuring as a result of the implementation of the Motor Carrier Act of 1980. Withdrawal liability has prevented unionized trucking companies from adjusting to the changing conditions that result from deregulation. Mergers, sales, consolidations and changes in operations have been hindered by the threat of withdrawal liability. Some trucking employers have continued uneconomical operations to avoid liability while other employers, forced out of business by changing conditions, have faced huge and unanticipated withdrawal liabilities. While existing employers have little choice but to remain in their multiemployer plans, new trucking employers are reluctant to join multiemployer plans, thus undermining the traditional funding base on which these plans rely.

Congress recognized the need for a special trucking industry exemption from withdrawal liability when it passed MPPAA in 1980. Unfortunately the trucking industry rule in the law has proved unworkable. Few plans are covered and the rule itself requires that employers post a bond or escrow equal to 50 percent of their potential liability in order to avoid a withdrawal—a heavy burden for an employer going out of business.

The solution

An equitable resolution of the industry's problem with MPPAA needs to be found—one which balances legitimate business interests and workers' economic security. It is in the best interests of both business and workers to encourage multiemployer plans. They provide career-long pension benefits for highly mobile employers in industries such as trucking. As contributing employers, we value the benefit provided to our employees by the multiemployer plans we support and we are concerned about the financial well-being of the plans.

For several years, the trucking industry has worked to obtain a better exemption from MPPAA's withdrawal provisions, similar to the construction and entertainment industry exemptions. In 1982, the Senate Labor Subcommittee, at hearings on S. 1748, indicated that ATA, the International Brotherhood of Teamsters and the major Teamster pension plans must work out a compromise legislative proposal in order to be successful in obtaining a satisfactory exemption from Congress. After lengthy negotiations, such a compromise was unable to be worked out, but we are willing to try again.

In the coming months, we will be developing a comprehensive data base on the multiemployer plans in our industry. We also plan to meet with other industries to determine appropriate legislative options to solve the problems of MPPAA. Any solution needs to consider sound funding requirements. Also some method of placing a fiduciary responsibility on the fund trustees for the plans they administer—perhaps by limiting their ability of increasing benefits levels depending on the financial condition of their plans—needs to be considered. ATA is committed to resolving the trucking industry's pension problems in an appropriate manner and would appreciate any assistance in so doing. Only when those problems are solved will the industry be able to restructure itself in a manner appropriate for our changed regulatory environment.

V. NEED FOR A COMPREHENSIVE FEDERAL SAFETY PROGRAM

Licensing

One of the most important areas of concern to the motor carrier industry and to the general public is motor carrier safety. Indeed, safety of motor carrier operations on the nation's highways is a major goal of the Federal motor carrier regulatory scheme which Congress has established. The responsibility of assuring the safety of interstate motor carrier operations rests both with the DOT and the ICC.

This sharing of responsibilities between the two agencies is sound in concept. Unfortunately, there is poor execution of this shared responsibility. DOT participates in far too few ICC proceedings, and even when DOT participated, the ICC does not always pay heed to DOT's advice.

One problem faced by DOT is evaluating ICC applicants is that many of the applicants are new carriers with no pervious safety record. Another problem is that the ICC has neither the staff, nor the expertise, to evaluate the safety qualifications of applicants before it. The ICC simply requires a new applicant to submit a verified statement that it is familiar with the DOT safety regulations and has a program to ensure compliance with those regulations. No evidence of such knowledge or of a carrier's planned safety program is required beyond these pro forma statements. Perhaps it is unrealistic to expect the ICC, with its current staffing levels and expertise, to do more. Yet, evidence of safe operations and compliance with Federal safety laws and regulations, both in spirit and fact, should be key factors in the licensing of motor carriers. Congress appeared to have such ends in sight when, in enacting the 1980 Motor Carrier Act, it retained the "fit, willing and able" standard first enacted in the 1935 Motor Carrier Act.

Insurance

In addition to the protection afforded the public by the licensing requirements, Congress enacted minimum financial responsibility levels in the Motor Carrier Act of 1980. As stated in the Conference report to the 1980 Act, "the purpose of [the insurance requirements] is to create additional incentives to carriers to maintain and operate their trucks in a safe manner as well as to assure that carriers maintain an appropriate level of financial responsibility. "The statutory minimums set by the legislation, however, have yet to go into effect.

Under the 1980 Motor Carrier Act, DOT was given the discretion to reduce the statutory levels of insurance, if necessary to allow a phase-in period of two years. At the request of the Secretary, Congress later extended the phase-in period for an additional two years. Under existing law, the financial responsibility levels set by Congress in July, 1980, will finally take force and effect on January 1, 1985.

Whether or not there was a true need for the extended phase-in period is no longer relevant. What is important is that the trucking industry and the insurance industry have had four and a half years to adjust and prepare for these higher levels. Insurance rates for the motor carrier industry have risen less than two percent since 1978. The industry's insurance expense has been one of its slowest rising expenses. There is not legitimate reason not to raise the insurance levels to their intended amounts.

There is, however, a legitimate need of the public for adequate compensation for losses suffered in collisions involving trucks. There should be no further delay in implementing the higher limits of insurance provided for by the Motor Carrier Act or the public interest will not be served.

State safety laws

In addition, a problem exists with state safety laws and regulations. This Committee has repeatedly reported truck safety legislation containing provisions aimed at creating more uniformity in state motor carrier safety laws.

S. 2174, which we hope will go to the floor of the Senate soon, would provide language equivalent to the Federal Railroad Safety Act of 1970, requiring that state motor carrier safety laws, rules, regulations, orders, and standards be nationally uniform to the extent practicable.

Motor carrier safety regulation is critically important to the industry as well as the nation. The industry needs practical, cost-effective and uniform safety rules. Such rules would assist in the compliance effort. This effort is most important with respect to Federal guidelines for intrastate truck operation since intrastate operations involve about 60 percent of the truck accidents but have minimal safety controls.

The motor carrier industry is prepared to invest time and money into a more effective and comprehensive safety program. But to be effective, this program must be instituted on a uniform national level by appropriate Federal legislation.

VI. REORGANIZE DOT TO REFLECT SIGNIFICANCE OF MOTOR CARRIER INDUSTRY

The motor carrier industry, the Congress and the states need a Motor Carrier Administration within the Department of Transportation. A Motor Carrier Administration should be established similar in scope to the Federal Railroad Administration, whose main charge is to consolidate U.S. support of rail transit; the Maritime Administration, which promotes the merchant marine; the Federal Aviation Administration, which promotes civil aviation; and the Urban Mass Transit Administration, which develops comprehensive, coordinated mass transport systems for urban areas.[8]

The problem

The shortcomings of the present DOT structure for the motor carrier industry was painfully obvious in the truck taxation hearings in the 1982 lame duck session of Congress. There was a lack of Federal leadership and coordination in the handling of general policy questions, and in the allocation of research and planning activities that have direct impact on the motor carrier industry. DOT Administrators from the other modes presented their viewpoints on truck taxation but there was no comparable representation by DOT of the trucking interests.

TABLE 3.—COMPARISON OF INDIVIDUAL MODES' REVENUE AND EMPLOYMENT—1982

	Revenues [1] (millions of dollars)	Employment (civilian) (in thousands)
Trucking	$177,747	[2] 7,361
Rail	27,134	[3] 583
Water	15,019	[4] 401

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[8] See Organizational chart of DOT, and Table 3, Comparision of individual modes' revenue and employment.

TABLE 3.—COMPARISON OF INDIVIDUAL MODES' REVENUE AND EMPLOYMENT—1982—Continued

	Revenues [1] (millions of dollars)	Employment (civilian) (in thousands)
Air (freight and passenger)	39,580	[5] 1,338
Urban Mass Transit	12,437	[6] 84

[1] Transportation in America, Transportation Policy Associates, July 1984, p. 4.

[2] "Selected State Trucking Data for 1981," Interstate Information Report, American Trucking Associations, Inc., April 14, 1983.

[3] Transportation in America, includes railroad services, railroad equipment, locomotive engineers, mechanics, and switch operators, p. 19 and new fact sheet.

[4] Transportation in America, includes water services, ship and boat building, and repair, p. 19 and new fact sheet.

[5] Transportation in America, includes air transport, aircraft and parts, aeronautical engineers, mechanics, and pilots, p. 19 and new fact sheet.

[6] Transportation in America, includes only local transit, p. 19.

A specific case in point was the direct participation of the Federal Railroad Administration and the National Highway Traffic Safety Administration (NHTSA) involving a DOT study of motor truck sizes and weights. The trucking industry did not have direct and equal representation as the railroad industry. Inadequate representation was repeated in DOT's Highway Cost Allocation Study. These situations will be repeated time and again unless corrective action is taken. There is a basic inequity built into the present structure of DOT.

The need for a Motor Carrier Administrator to coordinate and oversee DOT activities concerning motor carriers is exemplified by the DOT General Counsel's recent opposition to general rate increases requested by motor carriers. The carriers requested the increases to offset the increased costs resulting from the highway, use, fuel and excise taxes enacted by the STAA. The General Counsel's rationale for opposing the increases was that the net effect of STAA is to provide significant cost savings to the industry. Had there been a Motor Carrier Administrator, the DOT General Counsel would have been informed that, as yet, the motor carrier industry has not had the opportunity to achieve the benefits of the STAA, only to pay the increased costs. In the absence of a Motor Carrier Administration, such uninformed activity by DOT will continue to take place.

The functions of a motor carrier administration

The mission of a Motor Carrier Administration would be to advance the trucking industry for the benefit of the public now and in years to come through comprehensive research, planning and programming, which will lead to well-founded and properly directed policy decisions on trucking industry matters. The Federal Highway Administration and the Bureau of Motor Carrier Safety (BMCS) are now our sole representatives at DOT. We are not critical of them, but they are not concerned with overall transportation policies and programs, nor do they have the expertise to speak for the motor carrier industry of such matters.

Safety of truck operations and vehicles is so different from traffic safety generally, that it needs to be included in a separate administration. Matters such as driver hours of service, driver qualifications, inspection and maintenance, braking systems, combination vehicles, and the operation of commercial vehicle safety programs cannot be dealt with adequately by those who are knowledgeable only about passenger cars and general traffic safety programs.[9]

A Motor Carrier Administration, properly staffed with specialists such as those in BMCS and the Heavy Duty Vehicle Research Group, is essential for the conduct of effective truck safety activities. This is especially important now to carry out the STAA provisions establishing a national grant program to states for enforcement of Federal motor carrier safety regulation. Safety standards for trucks can best be developed if BMCS and the heavy duty vehicle research activity now within NHTSA are merged into a Motor Carrier Administration. The Heavy Duty Vehicle Research Group is responsible for some of the best research on basic truck brake systems and would have greater authority and incentive in the Motor Carrier Administration. Today, it is languishing in NHTSA after being demoted to a "group" status and its budget has been reduced to an insignificant amount.

In brief, there is strong justification for a Motor Carrier Administration. Such an Administration would give the motor carrier industry an effective and necessary voice to express the industry's legitimate concerns and to advocate programs that would enable it to better serve the transportation needs of our country.

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[9] These problems can be resolved to a limited extent by the establishment of a Motor Carrier Safety Coordinator. The appointment, however, of an overall Motor Carrier Administrator would resolve not only problems of motor carrier safety but issues of a more general nature as discussed previously.

CONCLUSIONS

The ATA requests this Committee join with us in addressing the six critical points raised in our testimony:

I. EVALUATIONS OF MOTOR CARRIER ACT REQUIRES THE FULL FIVE YEARS

The motor carrier industry and the Congress need the full five years provided by the Motor Carrier Act of 1980 to understand more fully its impact on the industry, the shippers, and the economy. Further deregulation should await this evaluation.

II. THE CHALLENGE OF MUSHROOMING FEDERAL AND STATE TAXES

A rational, equitable basis must be be developed for motor carrier taxation. The disparity in effective corporate income tax rates among competing transportation modes must be addressed and rectified if free-market forces are to function properly.

In addition, the wave of increased and new taxes by the states is creating articial barriers to interstate commerce. Discriminatory, complex, and burdensome state taxes must be handled on a comprehensive national basis.

III. IMPEDIMENTS TO INCREASED PRODUCTIVITY UNDER THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

The productivity benefits promised in the Surface Transportation Assistance Act of 1982 must be fully achieved. The large STAA tax increases can only be offset by the legislated increases in productivity. The Congress and DOT must act to assume that the impediments to STAA's productivity increases are removed.

IV. AN EQUITABLE SOLUTION TO THE INDUSTRY'S MULTIEMPLOYER PENSION PLAN PROBLEM

The industry requires an equitable solution to the problems resulting from the 1980 legislation amending this country's mutiemployer pension plan laws. Only when those problems are solved will the industry be able to restructure itself in a manner appropriate for our changed regulatory environment.

V. NEED FOR A COMPREHENSIVE FEDERAL SAFETY PROGRAM

Motor carrier safety regulations are critical to this industry as well as the nation. A rational, uniform approach which includes national standards must be developed.

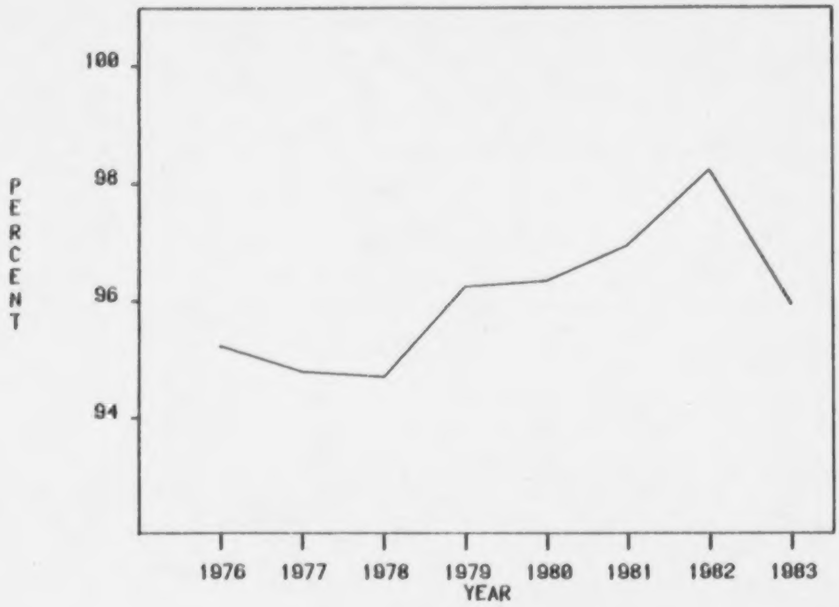
VI. REORGANIZE DOT TO REFLECT SIGNIFICANCE OF MOTOR CARRIER INDUSTRY

The creation of a Motor Carrier Administration in DOT would provide a central and effective office for developing, planning, coordinating, promotion the motor carrier industry on an equal basis with the other transportation modes. The size of the industry and the needs of the shipping public require equitable treatment of the motor carrier industry within DOT.

The American Trucking Associations, Inc., appreciates the opportunity to appear before the Committee on Commerce, Science and transportation of the United States Senate, and looks forward to working with this Committee toward a positive resolution of those issues that affect the motor carrier industry.

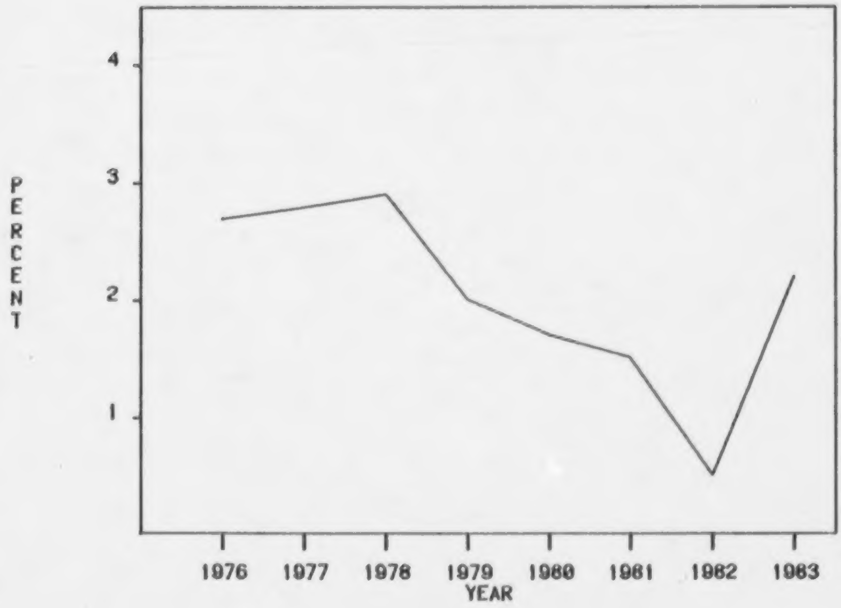
Graph 1

ALL GENERAL FREIGHT & SPECIALIZED CARRIERS
OPERATING RATIO



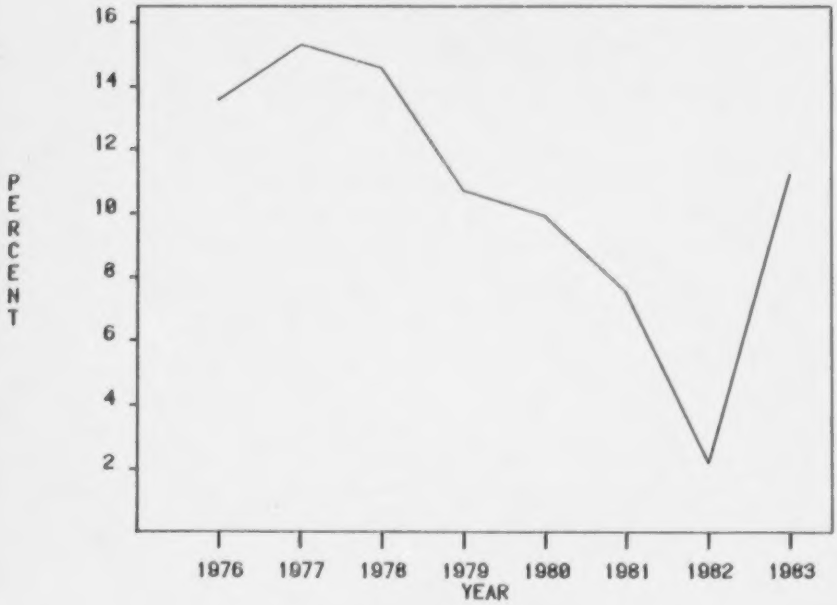
Graph 2

ALL GENERAL FREIGHT & SPECIALIZED CARRIERS
NET PROFIT MARGIN



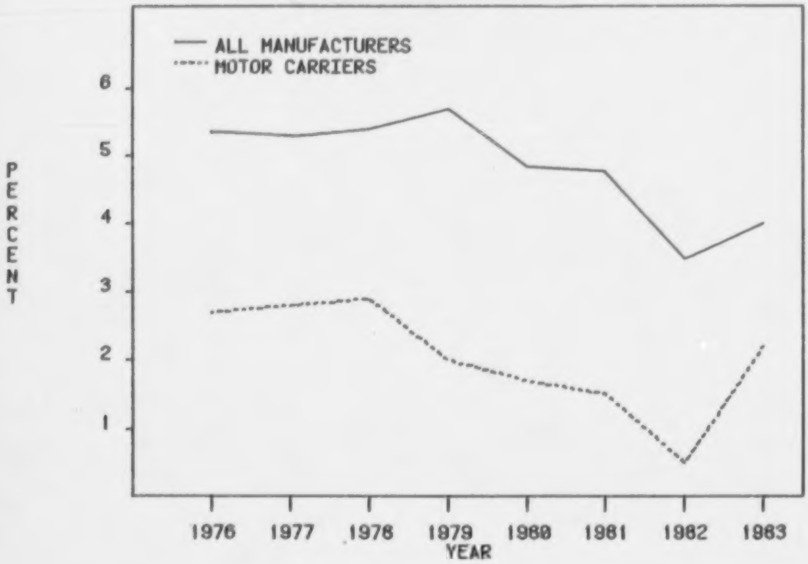
Graph 3

ALL GENERAL FREIGHT & SPECIALIZED CARRIERS
RETURN ON EQUITY



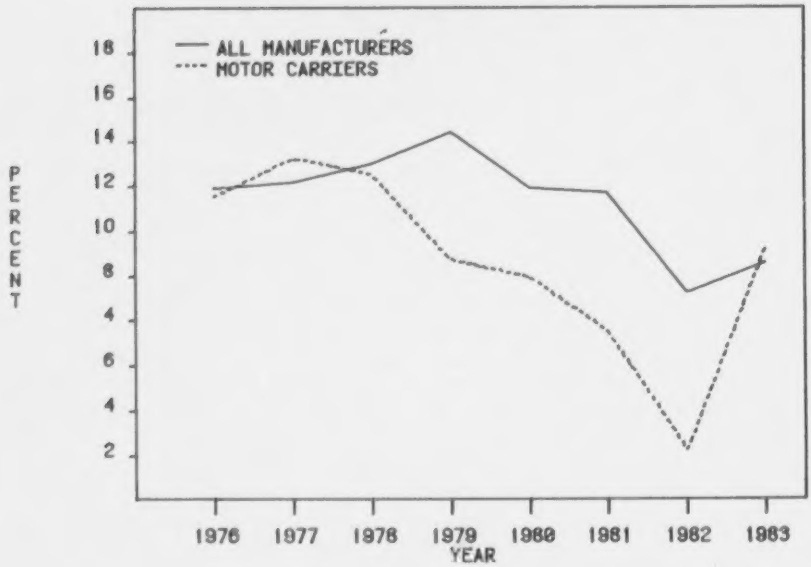
Graph 4

NET PROFIT MARGIN
MANUFACTURERS COMPARED TO MOTOR CARRIERS



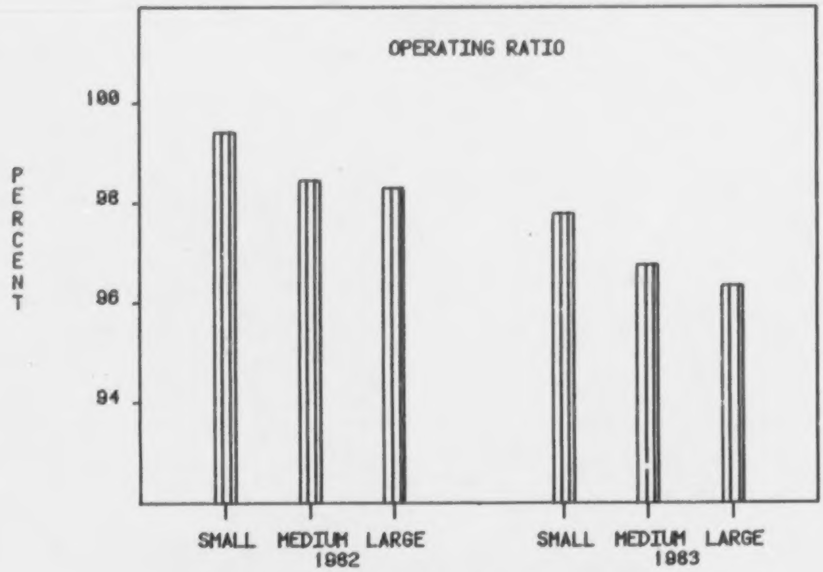
Graph 5

RETURN ON EQUITY
MANUFACTURERS COMPARED TO MOTOR CARRIERS



Graph 6

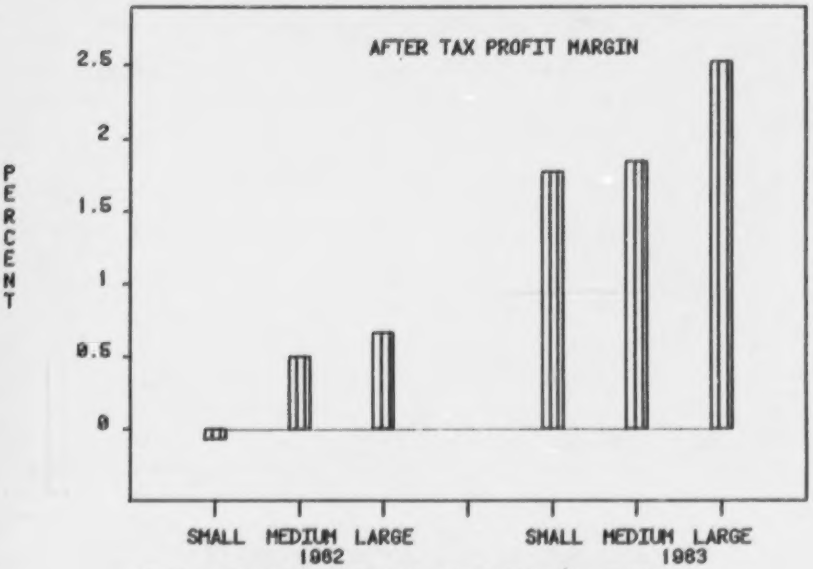
FINANCIAL MEASURES OF GENERAL FREIGHT CARRIERS
BY SIZE OF FIRM



SMALL - REVENUES BETWEEN $1 & $5 MILLION ANNUALLY
MEDIUM - REVENUES BETWEEN $5 & $25 MILLION ANNUALLY
LARGE - REVENUES GREATER THAN $25 MILLION ANNUALLY

Graph 7

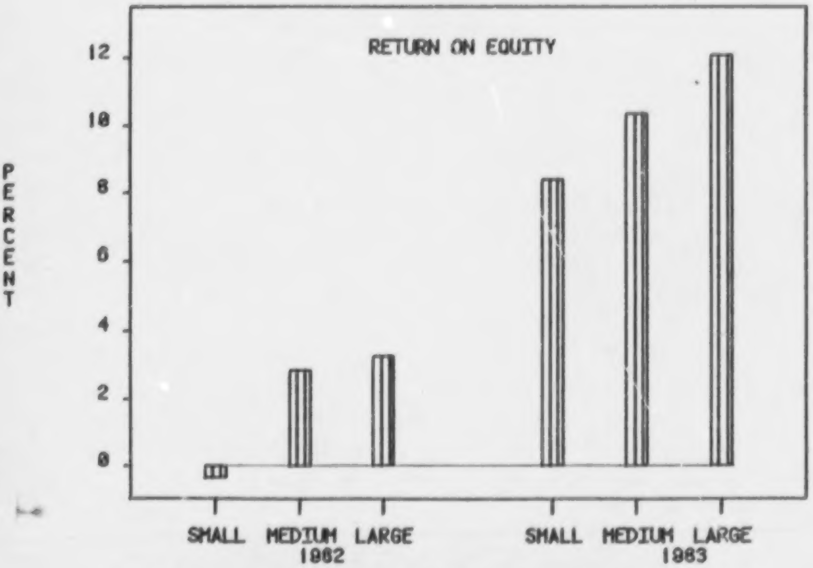
FINANCIAL MEASURES OF GENERAL FREIGHT CARRIERS
BY SIZE OF FIRM



SMALL - REVENUES BETWEEN $1 & $5 MILLION ANNUALLY
MEDIUM - REVENUES BETWEEN $5 & $25 MILLION ANNUALLY
LARGE - REVENUES GREATER THAN $25 MILLION ANNUALLY

Graph 8

FINANCIAL MEASURES OF GENERAL FREIGHT CARRIERS
BY SIZE OF FIRM



SMALL - REVENUES BETWEEN $1 & $5 MILLION ANNUALLY
MEDIUM - REVENUES BETWEEN $5 & $25 MILLION ANNUALLY
LARGE - REVENUES GREATER THAN $25 MILLION ANNUALLY

The **Chairman**. Now we will move to testimony from the International Brotherhood of Teamsters, Mr. Norman Weintraub, and Mr. Raymond Fularczyk.

Mr. Fularczyk, I apologize for mispronouncing your name.

Mr. **Fularczyk**. It is just a good old Polish name.

STATEMENTS OF RAYMOND J. FULARCZYK, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, SECRETARY-TREASURER, LOCAL UNION 200; AND NORMAN A. WEINTRAUB, CHIEF ECONOMIST AND DIRECTOR, DEPARTMENT OF ECONOMICS

Mr. **Fularczyk**. Good morning, Mr. Chairman.

The **Chairman**. Good morning.

Mr. **Fularczyk**. First of all, I want to thank you for just allowing me to be here.

The **Chairman**. We are happy to have you. You have a great deal at stake in this.

Mr. **Fularczyk**. I am secretary-treasurer of Teamsters Local Union 200 in Milwaukee, WI. My local now represents 8,700 people. It used to represent 13,000.

The **Chairman**. Yes; can you hear him in back? I don't know if your microphone is on or not, and I notice the press table cannot hear you. Try it again and see what happens.

Mr. **Fularczyk**. All right.

The **Chairman**. There you go.

Mr. **Fularczyk**. But now, I would just like to read some of this we have had prepared, because I am not used to being up here. I welcome the opportunity to assess the recent experience of our membership employed in the trucking industry. The only thing I have to say is that most of my people are laid off because they were making the rather nice wages, and other people entered the industry that are working for a lot lower wages now.

Deregulation of the motor carrier industry has caused widespread disruption and unemployment within my local union. I understand when Congress passed the Motor Carrier Act of 1980, it attempted to avoid widespread disruption. Unfortunately, the Interstate Commerce Commission has ignored specific provisions in the law, and has proceeded on its own course of total deregulation.

I am not here to find fault with the law. In all honesty, I do not know what impact the Motor Carrier Act would have had on the trucking industry, because it was never properly implemented by the ICC. The Commission has adopted policies of open entry, overextended grants of authority, and abandoned the public need and fitness test. Virtually anyone now can enter the trucking industry.

The International Brotherhood of Teamsters which represents organized labor in the trucking industry would be a willing partner with Government and industry to find solutions to the problems which confront general freight haulers and their employees.

There are several things that the Congress can do to improve the condition of the motor carrier industry and our membership:

First, the Congress should direct the ICC to implement the Motor Carrier Act in accordance with section 3(a) of the act which stipulated the act shall be applied with the least amount of disruption.

Second, workers who have been displaced from regulated motor carriers should receive priority hiring privileges when other regulated carriers are expanding their workforce.

Third, Congress should direct the ICC that before grants of operating authority are issued, the Commission must determine that the carrier is capable of providing the services petitioned for and able to satisfy the service obligations of the grants.

Fourth, Congress should direct the ICC to maintain effective service obligation by establishing a monitoring program to determine if the carrier is satisfying their service obligation.

Fifth, Congress must investigate the practice of predatory pricing and mandate that trucking rates must cover costs of operation.

Sixth, Congress should amend the Motor Carrier Act to require not less than $1 million minimum level of financial responsibility for nonhazardous carriers and require the ICC to monitor the carrier's compliance with current liability standard.

Seventh, Congress should mandate that truck safety laws be complied with by all segments of the trucking industry.

Eighth, Congress should mandate that ICC and the Department of Agriculture enforce section 16(a) of the Motor Carrier Act which calls for written contracts pertaining to certain interstate movements by motor vehicle. Owner-operators in this exempt trucking industry have been denied the benefits of a written contract. Congress should further mandate that owner-operators be considered employees for the purpose of labor laws, and be guaranteed the right of collective bargaining with the motor carrier holding authority.

Ninth, Congress should mandate that the Department of Transportation and/or the ICC conduct a study on the use of liberalized intercorporate hauling policy allowed by the Motor Carrier Act. This study should include the nature and extent of the diversion of freight common carriage, and the impact on the workforce of regulated carriers. Congress should eliminate single source leasing.

In addition, the IBT supports the principle of collective ratemaking immunity and exemption from antitrust laws for the motor carrier industry. We are pleased with the ICC's August 9, 1984, decision on Ex Parte MC-172, a proposal which would further deregulate the trucking industry. We feel this action demonstrated the necessity of maintaining some regulation over the motor carrier industry.

In addition, Mr. Chairman, I would like at this time to take the opportunity to thank you for your efforts on our behalf to ensure the passage of the Bankruptcy Court Reform Act. The *Bildisco* decision, I am sure you are familiar with, would have undermined us something fiercely.

Mr. FULARCZYK. I would like to introduce now Norm Weintraub.

The CHAIRMAN. I appreciate your comments on the *Bildisco* case. One of the reasons it offended me so much is that I practiced labor law for 5 years, although it was from the employer's side when I was a young lawyer, representing, on occasion, individual employers, but mostly trade associations. And I had a fair amount of bargaining with the Teamsters. It was normally the warehouse part of it, rather than the trucking part.

But in my wildest imagination as a business labor lawyer, I never would have conceived of using the bankruptcy laws the way they were used. They were not intended as that, I was offended by it, and I was almost ashamed of what I thought was an abuse, never intended by Congress.

Mr. FULARCZYK. We really appreciate that something was done, because it was to undermine union contracts.

The CHAIRMAN. Mr. Weintraub.

Mr. WEINTRAUB. Yes, sir. My name is Norman Weintraub. I am chief economist for the International Brotherhood of Teamsters. I would like to make my annual report to you, Senator, on the state of trucking industry employment.

We have been coming up here for 4 years now, I believe, on our annual layoff survey. This time we have some further backup on the study. The results for April 1984 where we surveyed 34 of our representative local unions, including Mr. Fularczyk's Local Union 200 in Milwaukee, are extremely disappointing, because while the layoff rate is a little bit better in the trucking industry, it is nothing with what we would expect in comparison with rate of economic recovery in the country.

If we take all people on seniority lists back in 1980, 28.8 percent of those people are on layoff. If we just take the carriers that were operating a year ago from the survey, in April 1983, forgetting about the carriers that went out of business in the first 3 years—that being history, our layoff rate is still 18.7 percent—for those carriers that were operating.

We had about 300,000 people on the seniority list in general freight in 1979 and 1980, under our National Master Freight Agreement and our Chicago Trucking Agreements. We are estimating on the basis of those figures that about 10 percent, or over 30,000 people, were placed on permanent layoff when their employers permanently shut their operations, and that what we might call temporary layoffs are about 19 percent.

Also in the last year, we had several major carriers terminate operations. Things are not as good as the chairman of the ICC states. Branch Motor Freight, Interstate, Illinois, California Express, IML and several other major carriers permanently closed their doors.

I have been informed by our largest employer association, Trucking Management Inc., that they, as usual, conducted a private layoff survey, which they do not make public, but that for the week ending June 23, 1984, of the more 60 major employers that responded to their survey, their layoff rate is 17 percent that is a horrible figure. Their figure should be a little bit better than ours, since we have to depend on the local unions and the local union records versus company records. To repeat 17 percent layoff rate in carriers in operation in June 1984.

We have fought with the General Accounting Office on the proper interpretation, but nobody else, outside of the union and the Trucking Management Inc., to my knowledge has made any study of the layoffs, the unemployment, the harm, the damage, that has occurred to the employees because of the Motor Carrier Act of 1980 and deregulation. We are not smart enough to separate out the impact. All we know is the results.

I have in our testimony a list of 53 class I and class II union carriers of general freight, and former union carriers. Under the National Master Freight Agreement. These 53 carriers employed over 66,000 people in 1980, did over 18 percent of the revenue. They are permanently and totally out of business.

We also find, looking over the ICC reports—and we agree with the American Trucking Association that the 100 largest list of the ICC is somewhat of a misnomer—results for the first quarter and preliminary results for the second quarter are not better.

In the third quarter of 1983, we had 13 carriers operating that had an operating ratio of over 100 of the large class I carriers. They are now 25 carriers over 100. We continue to lose major carriers, and I think whether or not you agree that the impact of the trucking act, the deregulation, has been beneficial to the economy, I think it is clear to say that nothing has been done for the workers that have been displaced.

Thank you, Mr. Chairman.

The CHAIRMAN. Let me ask both of you this question. Let me start with Mr. Fularczyk first. How big is your local now?

Mr. FULARCZYK. 8,700.

The CHAIRMAN. How big was it at its height?

Mr. FULARCZYK. 13,200.

The CHAIRMAN. How long ago?

Mr. FULARCZYK. 1979.

The CHAIRMAN. Almost a 50 percent reduction in the 5 years.

Mr. FULARCZYK. Pretty close.

The CHAIRMAN. Now, either one of you can answer this question. I realize your members have been laid off. Is one of the problems that they are going nonunion or they are becoming independent operators, or they are going to work for trucking companies that are nonunion and that indeed, while your members have been laid off and your numbers are down, employment in the trucking industry is not down particularly?

What is the answer?

Mr. FULARCZYK. Some of my members, although they worked for many years at decent conditions, have to go to work for what is considered nonunion carriers, for half the rate. And other members who have reached a plateau in their life where they are 53, 54, bankruptcies occur, they had no alternative but to retire.

The CHAIRMAN. Have many of them become owner-operators?

Mr. FULARCZYK. To become an owner-operator, you are in business today and out of business next week. I listened to a whole lot of testimony here about new entry. I am sure that if you take a ride down any highway, you will see the new entry, because there are more parking lots full of semi's for sale. There is a lot of new entry, but it is here today and gone tomorrow, because they can't service the Timbuktoo communities that exist in our rural areas in the State of Wisconsin.

The CHAIRMAN. Let me ask you this question, though, because this was one of the major issues we raised at the time of the deregulation—the small towns. And the American Trucking Associations made the argument that we serve them at a loss; if we don't have regulation, they are not going to get served at all.

That does not appear to have happened, and the reason I ask you that, if it did, I would get those complaints immediately from those small towns, and I am not getting them.

Mr. **Fularczyk**. I think that is yet to come. But you will notice one thing. If somebody had done a survey, there has been no expansion of industry to a small area. The smaller cities, sooner or later, smaller communities, will be complaining rather vociferously because expansion of any type of manufacturing has been limited. We are going back to the big cities and I live in a big city; I am happy for that. But they just don't get any expansion or new industry coming into their smaller communities because of the lack of service.

The **Chairman**. Let me ask you if Florida is a typical experience, or is that atypical.

Mr. **Fularczyk**. Florida.

The **Chairman**. Florida, where they have total intrastate deregulation. Their law sunsetted 5 years ago, and now they have nothing. We held a hearing down there—this was the Motor Carrier Ratemaking Commission, not the Commerce Committee. Three of the witnesses were State legislators from small areas. And I specifically asked them this question about service, and they said no, we haven't had any complaints. And surely they would get complaints.

And Florida has been a booming area and a growing area and industry is going in. Maybe Florida is atypical. Maybe you cannot use it as a nationwide experience, but the local legislators there had no complaints.

Mr. **Fularczyk**. I would hesitate to try to be an expert in comparing Florida with the State of Wisconsin, but Wisconsin, as you well know, is a manufacturing State and not a recreational State, as Florida would be, or a retirement State.

What I am speaking of is the possiblities of expanding manufacturing to smaller areas is no longer there.

Mr. **Weintraub**. Mr. Chairman, if I may.

The **Chairman**. Mr. Weintraub.

Mr. **Weintraub**. On the entry, while it's true there has been—I think you heard 60,000 new grants of operating authority from the chairman—we only know of one possibly new carrier, and it is questionable whether it really is new, in the LTL area. All the entry has been in the truckload, and what you are doing is getting increased concentration that may come back and hurt the consumer in the long run in the LTL.

Many of our people that lost their employment are not drivers, never owned a piece of equipment; they are dock people, they are maintenance people, they are office people that would not know the first thing, probably, about becoming an owner-operator or have the slightest interest in becoming one.

We honestly tried to have a few pilot examples of trying to find out what happened to these people, both the permanent and the temporary, unemployed and we just don't have the resources to do it. Our representative sample of 37 local unions was attacked vociferously by just about every Government agency concerned. I would hate to think what they would say if we took a sample of the unemployed workers.

We would like to see the Government agencies—there is quote in the Transport Topics that the ICC doesn't even have the resources to list the 100 largest carriers, and they have to wait for Commercial Car Journal to come out with the revised list each year so they can revise theirs. We would like to see some resources made available to find out what happens to these people.

We know certain of our pension fund have reported to us that the rate of early retirement increased dramatically after certain trucking companies went out of business. Our pension funds have had to pay health and welfare premiums without contributions coming in. Other people we know have left the industry. But we just do not have the resources to do a scientific study, and we believe it is the function of the Government to find out what happened to the people.

The CHAIRMAN. Last year, Mr. Weintraub, you expressed concern about the Department of Labor's failure to establish the job referral bank that was required under the 1980 act.

Can you bring us up to date? Has there been any change in the last year?

Mr. WEINTRAUB. Not that I know of, but after Trucking Management told me of their 17 percent layoff figure for the large carriers, it appears that at least for the larger carriers, that there would be no list of openings.

But perhaps for the smaller carriers it should be done, but even if it is done, I do not think that is going to help too many people, Mr. Chairman, in all honesty. I mean what we need is preferential hiring. I was going to say like the airlines, except that has been declared unconstitutional because of the legislative veto, and nobody has ever collected a cent off the airline bill at this stage.

But if the proponents of deregulation, including Professor Kahn who had a lot to do with it and ended up on nonunion New York Airways as a member of the board of directors—if there were such gains to the economy—and we have heard figures anywhere from $8 billion to $40 billion, back-of-the-envelope figures—if these gains are real, some small bit of the gain should be shared with the workers that are unemployed. At least we should try to find out how many are unemployed and what has happened to them, in my opinion.

The CHAIRMAN. A very valid statement.

Gentlemen, I have no other questions.

Mr. Fularczyk, let me thank you for coming. One of the things that I enjoyed when I practiced labor law was dealing with business agents, because I found, at least in most free unions, democratic unions with a small "d," that they had to run for office just as much as I had to run for office, and they really knew their members' needs and desires very well.

I also doubly enjoyed negotiating with the Teamsters, because they never wasted my time. You only had to have one meeting with them, and in those days you were talking about $3 and $4 an hour, 25 years ago. But if their bargaining request was $4 an hour, you knew they would settle for no less than $3.95, and you didn't need to waste time. With other unions, they would start at $5, and you would have negotiations for months, and you knew they would settle at $4 or $3.95 sooner or later, but it was an eternity in getting there.

The Teamsters did not waste my time, and I appreciated it. And if you didn't go to where they wanted, they went out on strike. It was very simple. You understood exactly what the situation was.

Mr. **FULARCZYK**. Thank you for having me.

The **CHAIRMAN**. Thank you for coming down. I appreciate it.

Mr. **WEINTRAUB**. Thank you, Mr. Chairman.

[The statements follow:]

STATEMENT OF RAYMOND J. FULARCZYK, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, SECRETARY-TREASURER, LOCAL UNION 200

Mr. Chairman, I would like to thank you for inviting the International Brotherhood of Teamsters to appear before your Committee. I welcome this opportunity to assess the recent experiences of our membership in the trucking industry. When Congress passed the Motor Carrier Act of 1980, it attempted to avoid widespread disruption in the trucking industry. Unfortunatly, the ICC has ignored specific provisions in the law and has proceeded on its own course of total deregulation. Rubber-stamping applications for grants of operating authority, the ICC's actions have resulted in massive unemployment and serious disruption in an industry that once served our nation's transportation needs well.

I am not here to find fault with the law, Mr. Chairman. In all honesty we do not know what impact the 1980 Motor Carrier Act would have had on the industry, because is has never been responsibly implemented by the ICC. I am here today to speak in human terms of the devastation that has been exacted of the motor carrier industry and its employees by a few people insistent on nothing short of total deregulation.

I have listened as these proponents of total deregulation have congratulated themselves for the wonderful things they have done for trucking in the United States. Advocates of deregulation initially predicted a short smooth transition from regulation to free markets. They were wrong. Under their direction unemployment and bankruptcies have become all too commonplace. What deregulators failed to anticipate was the prolonged duration and the painful intensity of restructuring traditional markets. In their haste to apply cost/benefit analyses and project huge savings for consumers, theorists refused to acknowledge the vulnerability of the worker during deregulatory transition. Deregulation has exacted a tremendous price in human terms from Teamster members.

The IBT which represents organized labor in the trucking industry would be a willing partner with government and industry to work to find solutions to the problems confronting general freight haulers and their employees. I will offer specific proposals designed to aid unemployed workers and the industry later in my remarks, but first let me speak briefly of recent trends affecting the industry.

ICC policies of open entry and over-extended grants of operating authority have set in motion processes which have drastically altered the trucking industry. The Commission has abandoned long standing public need and fitness tests by approving nearly 95 percent of all applications for new and extended authority. Since enactment of the 1980 legislation, virtually anyone can enter the trucking industry. Thousands upon thousands of new entrants are competing with established carriers to haul a limited number of goods. some large shippers have experienced temporary rate savings, but it is foolish to think that these savings will last.

The tremendous increase of new carriers into the truck load market will only work to the long term detriment of the trucking industry. It has forced carriers to contend with cutthroat competition to maintain market shares. Many have slashed rates in desperate efforts to survive. Declining revenue has crippled many firms in the wake of over-aggressive attempts to increase market share regardless of cost. By offering promotional discount rates of up to fifty percent, some carriers with big bankrolls are buying their way into new markets. These rates may be offered under the guise of promotion, but when prices are fixed lower than costs this is nothing short of predatory pricing—a practice which undermines the financial solvency of smaller carriers.

In addition to problems of declining revenue and excess capacity, the ICC routinely grants operating authority in excess of what is being applied for by petitioning carriers. The Commission has adopted a policy whereby it arbitrarily expands on the scope of commodity and territorial authority requested by carriers. Firms have applied for very specific location and commodity authority, but have had their requests expanded upon by the ICC. This has been done even though it is evident that the firm has no intention of providing the service as outlined by the Commission. Often, the financial resources and physical capabilities of a petitioning carrier render it impossible for that firm to provide the service specified by the ICC in their certificate. Carriers have been granted 48-state authority that do not have 48 trucks. Ultimately, this practice will lead to the demise of important common carrier service obligations.

Congress and Members of this Committee have repeatedly indicated that the Motor Carrier Act of 1980 was not to be interpreted as undermining the fundamental concept of service obligations. Congressional intent has been that carriers should be required to provide service indiscriminately to any shipper that reasonably requests that service within a carrier's zone of authority. Yet, in spite of Congressional wishes, the Commission has proposed doing away with these service standards.

Disregarding service obligations would be disastrous. General freight haulers will provide only that service which is most profitable. Small shippers and small communities will then face costly rate and service discrimination. What else could be expected of carriers that must overcome declining revenue and shrinking market share? Survival, not fairness, is the most pressing market incentive in the trucking industry.

An unprecedented number of well-established carriers have gone bankrupt since implementation of the Motor Carrier Act of 1980. According to the American Trucking Association, 350 carriers have failed since 1980. Among them, several major companies who were once considered stalwarts in the industry are included in this list: Cooper-Jarrett, Eazor Express, Gordon Transport, Hemingway Transport, Interstate Motor Freight Systems, IML, Mason-Dixon, Spector-Red Ball, and Wilson Freight.

The Teamsters have been involved in more than twenty major Class I carrier bankruptcy cases since enactment of the 1980 legislation. Some of these companies are continuing to operate at reduced levels under the protection of a bankruptcy court, but most have been forced to liquidate their assets. Several companies have failed even though our members made significant concessions of basic wages. Ultimately, nearly 30,000 Teamsters have lost their jobs permanently.

The IBT sees as a troubling outgrowth of these deregulation business failures the wrongful use of bankruptcy proceedings by unscrupulous managers to abrogate union contracts. This recent practice has seriously strained labor-management relations in some sectors of the motor carrier industry. It has become increasingly common for transportation firms to attempt to lower costs by pursuing exploitive labor policies. Heavy-handed threats to coerce givebacks in wages and fringe benefits from employees by threatening bankruptcy has become a stock weapon in management's arsenal against labor.

Some carriers who have narrowly avoided bankruptcy, have emerged from the recent recession substantially weakened. Desperately scraping to survive they have had to close their terminals, lay off most of their workers. These new deregulated carriers are unable to afford the substantial capital investment needed for equipment and employees to service new terminals, as well as being unwilling and unable to make up for the lost service. Forced out of this market, small carriers are now concentrating on hauling more profitable truckload quantities between major points for large shippers. Inevitably, this scenario of open entry, rate slashing, declining revenues, layoffs, and bankruptcies will serve to disadvantage all of those dependent on less than truckload service.

Some proponents of deregulation have argued that the recession was the sole cause of problems of declining revenue and tonnage that plagued the motor carrier industry. There is no question that the recession adversely affected trucking firms. However, denying that deregulation has also had a negative impact on established firms is irresponsible. Any serious student of this industry cannot avoid the fact that deregulatory policies have had important effects on the trucking market.

Deregulation is responsible for declines in employment among traditional firms in the industry. While it is apparent that general economic conditions have recently improved the earning abilities of some carriers, the employment situation has not significantly improved for the unionized workers of general freight carriers. There is also evidence that small towns and small shippers are experiencing much higher rate increases now than in the 1970's.

New trucking firms have not been able to provide the same level of service as the larger, better financed firms that they have replaced. In addition, investments in new trucks have declined, and over-the-road fleets are aging. This implies growing highway safety problems in the 1980's.

The trucking industry has deteriorated to the point that it resembles the chaotic environment of instability that existed prior to 1935. This atmosphere of instability was the primary factor which led to the initial regulation of trucking in the United States. Knowledgeable economists are projecting a shakeout in the industry which will leave only the largest carriers in sound financial condition as small carriers are reduced to competing for any business that has not been captured by the giants. Clearly, this process is already under way. Mr. Silberman, in testimony on behalf of the ATA, has indicated that the top ten carriers have substantially increased their portion of market share every year since 1980. Last year these ten companies controlled over 50 percent of the profits. Although the current recovery has improved conditions for many trucking firms, few believe that the shakeout is complete. Economic instability is expected to continue.

Is this the future that Congress intended for the motor carrier industry? Should rates and service options be controlled by the largest carriers while smaller carriers are constantly on the verge of bankruptcy? I cannot believe that this was the intent of Congress when it passed the Motor Carrier Act of 1980. When Congress passed transportation deregulation it did so for the benefit of consumers. I also find it difficult to believe that Congress intended to benefit consumers by permanently lowering workers' standards of living. Yet it is the workers who are penalized in the current regulatory scenario.

The trucking industry is nearing a crisis, Mr. Chairman, but for Teamster members who work in the industry the crisis is already here!

Our most recent employment survey indicates that the lay off rate for our members working in general freight is 29.2 percent. Almost 100,000 of our members are out of work. This is nearly four times the national average! The incidences of human suffering resulting from these job losses are painfully evident. Consider in human terms what the economic dislocations and losses of pensions and health insurance benefits have meant to unemployed Teamsters.

The health concerns affecting our unemployed membership are serious, and sometimes critical. One problem for the unemployed person is that when union health benefits run out, private health insurance plans are too expensive. Laid off workers could spend up to two-thirds of their unemployment benefits just in purchasing coverage comparable to their union plan. Teamsters members covered by the National Master Freight Agreement have some of the best health care plans in the country. When unemployment of our members increases, the contributions to these plans decline.

Health insurance is one of the first places that families must cut back on in order to save expenses. Regretfully, it is at a time when they need coverage the most. Health authorities have documented a broad range of emotional and physical disorders that are clearly linked to unemployment. Many health clinics and hospitals are associating job loss to increases in family disturbances, child abuse, alcoholism, behavioral disorders, and other stress-related ailments.

We have members who have faced life threatening crises and have lost everything they spent their lives working for because of the cost of the treatment. What else could they do but spend the money when their health insurance had run out. We have members who have had sick children with chronic conditions that required continual medical attention, but doctors did not want to treat them because the unemployed worker could not afford to pay their fees. Hospitals do not want to treat patients without insurance, even in emergency rooms.

Loss of pension is another critical problem facing many of our members in general freight who have lost their jobs. Too often these men and women were just a few years short of receiving pensions, but now they face retirement without any benefits to supplement their Social Security incomes.

In addition to their health and pension concerns, economic losses have been particularly severe for unemployed Teamsters. The situation for these unemployed Teamsters is ominous. For those members lucky enough still to be collecting unemployment benefits, these payments average only one-third of a normal worker's income. Most of our members on lay off status from the motor carrier industry are no longer eligible to receive unemployment compensation. This is not surprising when you consider that many of our unemployed members have been out of work for a year or longer.

For many there is some hope after the benefits run out. Maybe it is a part-time job or a spouse who finds work that will provide enough income to keep the family afloat. But the problem is bigger than the availability of transfer payments and temporary employment. There are considerations which are just more compelling:

We are talking about workers who are committed to the American work ethic;

We are talking about workers who are among the most self-sufficient and independent people in our nation;

We are talking about workers who have labored all of their lives to own a home, to own a car, and to save for their children's education;

We are talking about workers who have had their jobs legislated out of existence by a Commission that should not have legislative authority.

These people never asked for the ICC's brand of deregulation, but they got it, and now they are out of a job. Perhaps the most difficult thing to witness as a Teamsters representative is the damaged self-esteem of our once proud over-the-road drivers and terminal operators as they struggle to make ends meet, scrimp to make car and mortgage payments, and scrape to put food on the table.

These are the hard facts of life that our unemployed members must face every day. They have worked hard to help build a sound transportation system in the United States. But they have labored only to see their lives and their livelihood crumble around them.

Hopefully, the deregulatory zeal has subsided. It is no time to be uncompromisingly ideological when workers' livelihoods and safety are at stake. We must be pragmatic. Deregulatory excesses must become subject to reregulation. Democratic House Majority Leader Jim Wright recently assailed economic deregulation. "Deregulation sounded good, superficially. In fact, it hasn't worked out well in practice," Wright said. "I would like very much to see some motion put into being to stop the momentum, the headlong drive to deregulating everything and creating the law of the jungle again, which existed a century ago," he concluded. (Los Angeles Times, March 19, 1984, p. 1.)

Development of policy must recognize and reflect the vulnerability of workers to legislative and regulatory changes. When policy disrupts the lives and employment of workers then steps must be taken to account for these changes and to protect workers from losing their livelihood.

When Congress initially considered legislative changes in the regulatory posture of the trucking industry, we suggested the inclusion of language in several legislative proposals that would have provided some measure of job security for our workers. We were assured by Congress that this would not be necessary because the Act instructed the ICC to implement the provisions of the new law so as to minimize disruption of the transportation industry. With a current unemployment rate of almost 30 percent among Teamster members in the trucking industry, it is evident that the Commission has ignored this statutory requirement.

We were promised that if this legislation harmed our membership, we could win redress for them. Frankly, when nearly 100,000 people have been legislated out of their jobs, the time for redress is now. We do whatever we can to aid our unemployed members Mr. Chairman, but alone we cannot do all that needs to be done.

There are several things that I believe the Congress could do to improve conditions for the motor carrier industry and our members who work in that industry.

First, Congress should direct the ICC to implement the Motor Carrier Act of 1980 in accordance with your intentions in passing the law as articulated in Section 3(a) of the Act.

Second, Congress should direct that workers who have been displaced from regulated motor carriers have priority hiring rights when other regulated carriers expand their workforce. Congress should authorize reasonable amounts to compensate those unemployed workers who must move to obtain new employment in the motor carrier industry.

Third, Congress should direct that before grants of operating authority are tendered the Commission must determine that carriers are capable of providing the service petitioned for and that the service would satisfy some public need.

Fourth, Congress should safeguard the public interest by directing the ICC to maintain effective service obligations and by establishing a constant monitoring procedure to determine whether carriers are satisfying their service obligations to the shipping public.

Fifth, Congress should investigate the practice of "predatory pricing" and mandate that trucking rates must cover costs.

Sixth, Congress should amend Section 30 of the 1980 Act to require not less than $1 million minimum level of financial responsibility for nonhazardous cargo. Private carriers in interstate commerce should also be covered by an amendment to this section. Congress should require the ICC to monitor motor carrier compliance with current liability standards.

Seventh, Congress should mandate that safety laws be complied with by all segments of the trucking industry. Hours of service standards should be monitored more closely. The International Brotherhood of Teamsters is convinced that highway safety has deteriorated since enactment of the Motor Carrier Act of 1980. The Washington Beltway is a prime example.

Eight, Congress should mandate that the Interstate Commerce Commission and the U.S. Department of Agriculture enforce Section 16(a) of the Motor Carrier Act of 1980 which calls for "written contracts pertaining to certain interstate movements by motor vehicles." Owner-Operators in the exempt trucking industry have been denied the benefit of a written contract as Congress mandated in 1980. Congress should further mandate that owner operators be considered employees for purposes of labor law and be guaranteed the right of collective bargaining with the motor carrier holding authority.

Ninth, Congress should mandate that the Department of Transportation and/or the Interstate Commerce Commission conduct a study on the use of the liberalized intercorporate hauling policy allowed by the Motor Carrier Act of 1980. Such a study should include the nature and extent of the diversion of freight common carriage and the impact on the work force of regulated carriers. Congress should eliminate "single source leasing".

Above all, Mr. Chairman, it is important that Congress realize that at present the trucking industry is in a state of chaos and that any proposals for further deregulation of the industry are entirely ill-conceived. Until the motor carrier industry and our membership employed in the industry are able to adjust to the deregulated environment, we are against any further deregulation of rates or entry.

The International Brotherhood of Teamsters supports the principal of collective ratemaking and exemption from anti-trust laws for the motor carrier industry. In addition, we are pleased with the Interstate Commerce Commission's August 9, 1984 decision on Ex Parte MC 172, a proposal which would further deregulate the trucking industry. We feel this action demonstrates the necessity of maintaining some regulation over the motor carrier industry.

In conclusion, Mr. Chairman, let me say that I know that there are some people who hoped that this legislation would mean the end of union representation in the trucking industry. I say to them now that we are just as strong as we ever were and that the Teamsters will weather this storm just as we have weathered many other storms in the long and great history of our union. We have done our part to help this troubled industry, and now we need Congress to do its part. I am sure that together we can overcome the problems which I have described to you today, and that together we can just unemployed Teamsters back to work in a strong and vital industry. Thank you.

STATEMENT OF NORMAN A. WEINTRAUB, CHIEF ECONOMIST AND DIRECTOR, DEPARTMENT OF ECONOMICS, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

The International Brotherhood of Teamsters, the collective bargaining representative of over 300,000 drivers, dock workers, office personnel and mechanics, employed, or on layoff, from I.C.C. regulated motor carriers of general freight, continues its strong opposition to trucking deregulation and the improper implementation of the Motor Carrier Act of 1980 by the Interstate Commerce Commission.

Since the enactment of the Motor Carrier Act of 1980 on July 1, 1980 the financial condition of the regulated general freight trucking industry sharply deteriorated and despite some very recent improvements by some motor carriers the outlook is still grim. Layoffs and unemployment of our members in trucking increased sharply in each year from 1980 to 1983 and has only marginally improve in 1984.

The Economics Department of the International Brotherhood of Teamsters has conducted an annual survey of layoffs and layoff rates in the I.C.C. regulated general freight motor carrier industry every year since April, 1981. The Final Report for April, 1984 analyzing the survey forms received from thirty-four IBT local unions is attached to this statement.

Our Final Report for April, 1984 shows that in the thirty-four (34) local unions, 13,237 over-the-road drivers and local cartage workers of the 70,763 road drivers and local cartage workers with seniority rights were on layoff status—a layoff rate of 18.7%. The 18.7% layoff rate excludes drivers and local cartage workers who lost their jobs when their motor carrier employer terminated operations between July 1, 1980 and April 1, 1983.

We further find that for 33 responding local unions, where data was available, that 9,789 road drivers and local cartage workers were laid-off when their employer terminated operations sometime between July 1, 1980 and April 1, 1983. Including these permanently laid-off workers, there were 77,510 road drivers and local cartage workers on the seniority lists of the 33 responding local unions in 1979. Of the 77,510 workers we found that 22,359 of 28.8% were on layoff status.

From our sample, we are able to estimate statistically, with a 95% degree of confidence, that the layoff rate in the regulated general freight trucking industry in April of 1984 was between 25.17% and 32.81% when we consider laid-off workers from carriers that terminated operations between July 1, 1980 and April 1, 1983. When we exclude laid-off workers from motor carriers that terminated operations prior to the current survey year, (ie.—prior to April 1, 1983) we find, with a 95% degree of confidence, that the layoff rate ranged between 15.97% and 22.51% on April 1, 1984.

The International Brotherhood of Teamsters represented about 300,000 drivers and other workers under the National Master Freight Agreement and Chicago Trucking Agreement in 1979. We estimate that about 30,000–40,000 of these workers "permanently" lost their jobs when their employers terminated operations between July 1, 1980 and April 1, 1983. Considering only motor carriers that were in operation on April 1, 1983, we estimate, with a 95% degree of confidence, that between 43,119 and 60,77 workers were on layoff status. On the other hand, when we consider all employees on seniority between 75,510 and 98,430 were on layoff status in April of 1984.

We estimate a "temporary layoff rate" of 19% of the work force in I.C.C. regulated general freight in April, 1984 and an additional 10% of the 1979 work force that permanently lost employment, or left the industry between 1980 and 1983.

Our estimate of "temporary layoffs" only decreases from 23% to 19% between April, 1983 and April, 1984 despite a sharp upturn in the general level of economic activity. In the October 25, 1983 Oversight Hearings of this committee we stated:

"A modest or even substantial overall recovery in the general economy will not undo the impact of the Motor Carrier Act of 1980." (Pg. 4).

The recovery from the biggest recession since the Great Depression of the 1930's has been substantial. Real Gross National Product in the second quarter of 1984 was 7.6% above the second quarter of 1983. After showing decreases in three of the four quarters of 1982, Real GNP registered sharp gains in all four quarters of 1983, and the first two quarters of 1984. The Index of Industrial Production, as reported by the Board of Governors of the Federal Reserve System, for July 1984 was 10.6% greater than the index for July, 1983. The national unemployment rate fell from 10.1% in April, 1983 to 7.5% in August, 1984.

On the other hand, tonnage hauled by the I.C.C. regulated general freight motor carriers has not recovered the losses due to the recession and the Motor Carrier Act of 1980. The Regular Common Carrier Conference—ATA has just released its Quarterly Operating Results of the Motor Common Carriers of General Freight for the First Quarter, 1984. The R.C.C.C. survey shows that tonnage hauled by regulated general freight carriers (both union & non-union) in the First Quarter of 1984 increased by 9.1% over the First Quarter of 1983; however tonnage hauled between the First Quarter of 1979 and the First Quarter of 1984 decreased by almost 44%.

Please note that tonnage hauled between calendar year 1979 and calendar year 1983 by the regulated general freight carriers dropped by almost 41%. (See Table 1 attached).

The latest ATA Truck Tonnage Index for general freight show that tonnage in the second quarter of 1984 was about 28% below the second quarter of 1979.

Appended to this Statement is our current listing of 53 Class I & II regulated motor carriers of general freight (workers represented by the IBT) that terminated general freight operations between July 1, 1980 and September 1, 1984. These 53 carriers employed 66,128 persons in 1979 and earned $3.1 billion in operating revenues in 1979. (over 18% of the total employment & total operating revenue of 728 Class I & II regulated general freight carriers in business in 1979).

Our annual layoff study has shown a high level of layoffs and increases in the layoff rate from 1981 to 1983 and some improvement in 1984. Considering employees of all general freight carriers in operation in 1979 the estimated layoff rate (mid point), with a 95% degree of confidence, showed the following trend between 1981–1984:

	Percent
April 1981	21.2
April 1982	28.3
April 1983	32.2

	Percent
April 1984	29.0

Adjusting the data to exclude carriers that terminated operations prior to the survey dates we obtain, as a measure that might be considered a "temporary layoff rate", as follows:

Temporary layoff rate

	Percent
April 1981	21.2
April 1982	22.0
April 1983	23.5
April 1984	19.2

Some witnesses before this Committee in prior years have stated that the trucking industry was experiencing unemployment and financial hardship no worse than other key industries in the economy. However, the general level of economic activity has increased sharply in the past year, but tonnage hauled by the I.C.C. regulated general freight motor carrier industry has only recovered a small portion of the losses suffered since 1979. Layoffs and layoff rates have shown a slight improvement between April, 1983 and April, 1984 but remain over twice as high as the national unemployment rate. The Motor Carrier Act of 1980 has indeed had a great adverse impact upon the workers employed (or previously employed) by the I.C.C. regulated general freight motor carrier industry.

TABLE 1.—GENERAL FREIGHT TONNAGE

	Tons of general freight
(A) 1979-83	
Calendar year:	
1979	170,271,917
1980	136,411,969
1981	131,479,675
1982	105,469,373
1983	100,748,030
Percent change:	
1979 to 1983	−40.8
1982 to 1984	−4.5
(B) First quarter: 1979 to 1984	
1st quarter:	
1979	45,800,418
1980	34,557,224
1981	33,925,886
1982	26,324,600
1983	23,644,380
1984	25,802,510
Percent change:	
1st quarter 1979 to 1984	−43.7
1st quarter 1980 to 1984	−25.3
1st quarter 1983 to 1984	+9.1

Source: "Quarterly Operating Results of the Motor Common Carriers of General Freight, 1st Quarter, 1984, Regular Common Carrier Conference."

FINAL REPORT—LAYOFFS, LAYOFF RATES AND EMPLOYMENT: APRIL 1984, I.C.C. REGULATED MOTOR CARRIERS OF GENERAL FREIGHT: SURVEY OF 34 REPRESENTATIVE LOCAL UNIONS UNDER THE NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT

SUMMARY OF RESULTS

Layoffs and layoff rates: Road drivers and local cartage workers, April 1984 (sample results)

Completed survey forms were received and analyzed from 34 representative local unions. Local 600, St. Louis; was included in the survey for the first time in 1984, and an additional three local unions did not respond.[1]

The 34 responding local unions reported 70,763 over-the-road drivers and local cartage workers [2] on their seniority lists in April, 1984. Of the total of 70,763 workers with seniority rights 13,237 or 18.7% were on layoff status. The 18.7% layoff rate does not include workers who lost their jobs when their carrier terminated operations between July 1, 1980 and March 31, 1983.

The 18.7% layoff rate for the responding 34 local unions excludes maintenance employees, office workers, and owner-drivers. As noted above, the data also excludes 9,789 road drivers and local cartage workers who were employed by I.C.C. regulated motor carriers of general freight under the NMFA, that termianted operations between July 1, 1980 and March 31, 1983. The Motor Carrier Act of 1980 was enacted on July 1, 1980.

For the 33 responding local unions (comparable data is not available for Local 600), of a total of 77,510 road drivers and local cartage workers on seniority lists since July 1, 1980, some 22,359 workers or 28.8% of the total are on layoff status. Of the 22,359 laid-off workers, 9,789 workers, or about 45% of the total laid-off workers, can be considered permanent job losses—these workers were laid-off from motor carriers that terminated operations before April 1, 1983.

The IBT Economics Department has conducted an annual survey of layoffs and employment in the regulated general freight motor carrier industry starting with data for April, 1981. As part of the 1982 NMFA negotiations the seniority rights of laid-off workers were continued until March 31, 1985—the expiration date of the current agreement. The prior NMFA (1979-1982) limited seniority rights on layoff to 3 years. Thus, workers who were on layoff status on July 1, 1980 (date of enactment of the Motor Carrier Act of 1980) retain their seniority status [3] unless their employer had terminated operations.

The national layoff rate of the sample of representative local unions started at a high rate (in comparison to national unemployment rates) in April, 1981 and increased in April, 1982 and April, 1983. Following are the layoff rates, including laid-off employees of carriers that terminated operations from 1981-1984:

	Layoff rates Survey date: (percent)
April 1981 [1]	22.4
April 1982 [2]	28.3
April 1983 [3]	32.5
April 1984 [3]	28.8

[1] Includes terminated operations: July 1, 1980 to March 31, 1981.
[2] Includes terminated operations: July 1, 1980 to March 31, 1982.
[3] Includes terminated operations: July 1, 1980 to March 31, 1983.

If we only consider those employees on lay-off status from motor carriers that are in operation on the survey date the layoff rates of the responding local unions are still high in comparison to national unemployment rates:

Survey date:	*Layoff rates (percent)*
April 1981	22.4
April 1982	22.2
April 1983	23.5
April 1984	18.7

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[1] The local unions not in this preliminary report include 1 local union from the Eastern, Central and Southern Conferences respectively and 4 local unions in the Western Conference. Please note that in the Western Conference, Local Unions 224 and 357 merged into Local 63.

[2] Local cartage workers include pickup and delivery drivers, cargo handlers, hostlers, etc., dock workers, etc.

[3] Although workers maintain seniority on layoff, seniority can be lost because of retirement, resignation, death, refusal to accept employment, etc.

While the April, 1981–April, 1983 results do not include any layoffs from motor carriers that terminated operations by the survey dates, the estimate for April, 1984 includes layoffs from carriers that terminated operations on or after April 1, 1983.[4]

Estimates of layoff rates and layoffs: I.C.C. regulated motor carriers of general freight represented by IBT—April 1984

By treating all responding local unions as having equal weight (i.e., ignoring the differences in the number on the seniority lists by local union), we compute a sample mean (average) layoff rate of 28.99% and a sample standard deviation of 10.77% for April, 1984. This estimate includes laid-off employees, represented by 33 responding local unions, who terminated operations since July 1, 1980.

If we only consider laid off employees of motor carriers that were in operation on April 1, 1983 (i.e., motor carriers currently in operation or shutdown within the last survey year), we compute a sample mean (average) layoff rate of 19.24% and a sample standard deviation of 9.35% for April, 1984. This estimate includes laid-off employees represented by 34 responding local unions.

As a first approximation the 19.24% layoff rate may be considered as representing those laid-off workers who are still in the job market or temporary layoffs. Their employers are still in operation or some employers terminated their operation within the last survey year. The 28.99% average layoff rate would include both temporary and permanent job losses. As a first approximation—the 9.8% difference between the estimated average layoff rates (29.0%–19.2%) can be considered an estimate of "permanent" job losses as it shows the percent of the workforce that lost their jobs when their carriers terminated operations before the current survey year.

Statistical inference (t-test) with a sample size of 34 and 33, allows us to estimate with a 95% degree of confidence, layoff rates for the entire IBT represented regulated motor carriers of general freight industry in April, 1984:

(*a*) Considering only those workers whose employers were in operation on 4/1/83 the estimated layoff rate, with a 95% degree of confidence, on April 1, 1984, is between: 15.97% to 22.51%.

(*b*) For laid-off workers with seniority rights on 7/1/80 (carriers in operation 4/1/84 or terminated operations between 7/1/80–4/1/84), the estimated layoff rate, with a 95% degree of confidence, on April 1, 1984 is between: 25.17% to 32.81%.

In 1979, there were approximately 300,000 drivers and dock personnel employed under the National Master Freight Agreement and Chicago Trucking Agreement. At the present time (April, 1984) we are 95% certain that there are between 25.17% and 32.81% of the 300,000 persons in seniority lists in 1979 who are on layoff status or between 75,510 and 98,430 persons on layoff.

It appears that about 10% of the dock workers and road drivers on seniority lists in 1979 were employed by carriers that terminated operations between July 1, 1980 and March 31, 1983. We can consider the 10% or 30,000 workers as a first estimate of permanent job loss. Thus, we estimate that there were about 270,000 drivers and dock persons, etc. employed under the NMFA and Chicago Trucking Agreement on April 1, 1983.

Of the persons employed by motor carriers under the NMFA and Chicago Trucking Agreement on April 1, 1983 we are 95% certain that between 15.97% and 22.51% were on layoff status on April 1, 1984. We are 95% certain that somewhere between 43,119 and 60,777 drivers and dock personnel were on layoff status on April 1, 1984 from motor carriers that were in operation on April 1, 1983.

As a first approximation, we estimate (with a 95% degree of confidence):

Of the 300,000 workers on seniority lists of I.C.C. regulated motor carriers of general freight (unionized) somewhere between 43,119 and 60,777 are on layoff status from motor carriers that are still in operation or terminated operations within the last year—An additional 30,000 to 40,000 workers permanently lost their jobs when their motor carrier employers terminated operations between July 1, 1980 and March 31, 1983.

Attached to the preliminary report was a listing of IBT represented Class I & II I.C.C. regulated motor carriers of general freight that terminated operations since July 1, 1980. The list shows that by September 1983 some 45 carriers who employed 47,577 persons in 1979 had terminated general freight operations. Unions, on the average, represent between 60%–70% of a general freight carriers total number of employees. Thus, we can estimated that between 29,000 and 33,000 union workers permanently lost their jobs between July 1, 1980 and Sept. 1983.

Following is a comparison of the estimated layoff rates for April, 1981–April, 1984:

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[4] We included those motor carriers who were signatory to the 1979 National Master Freight Agreement who requested independent negotiations in 1982.

ESTIMATED LAYOFF RATE

[Figures in percent]

	95 percent degree of confidence range
Midpoint:	
April 1981 [1] 21.22	18.76 to 23.67
April 1982 [1] 28.34	25.52 to 31.16
April 1983 [1] 32.16	28.58 to 35.74
~~April~~ 1984 [1] 28.99	25.17 to 32.81

[1] Includes motor carriers that terminated operations between July 1, 1980 and survey date.

If we only consider carriers that were in operation on March 31, 1983, the estimated layoff rate for April, 1983 ranged between 20.65% to 26.73% and fell to a range of 15.97% to 22.51% for April, 1984—at the 95% level of confidence.

Despite improvement in the estimated layoff rate between April, 1983 and April, 1984 the preliminary data and analysis shows a layoff rate in general freight substantially greater than the national unemployment rate.

METHODOLOGY

In April, 1984 the International Brotherhood of Teamsters distributed survey forms to 37 affiliated local unions with significant membership covered by the National Master Freight Agreement and Supplemental Agreements or the Chicago Trucking Agreement. The same 37 local unions that responded to the April, 1981 and April 1983 surveys were included in the 1984 survey with the addition of Local 600 in 1984. In this reported data is presented for 34 responding local unions.

The selected local unions were requested to report for April, 1984 for the key job classifications of over-the-road driver and local cartage workers (pickup and delivery driver, dock worker, hostler, etc.) the following information:

1. Number of workers on the seniority list.
2. Number of workers employed.
3. Number of workers on layoff.

A separate survey form was to be completed by each selected local union for each Interstate Commerce regulated motor carrier of general freight in its jurisdiction under the National Master Freight Agreement or the Chicago Trucking Agreement. The layoff rate was computed from the survey forms by the IBT Economics Department.

As we did since April, 1982, the 1984 survey includes the additional job classifications of maintenance and office workers in Appendix A & B.

Those classifications were excluded from the 1981 survey. To insure comparability with prior surveys, Tables 1.1 to 1.9 & 2.1 do not include office or maintenance workers. Layoff rates for office workers are found in Appendix B while layoff rate for maintenance employees can be found in Appendix A.

Workers covered by the National Master Freight Agreement who were on layoff on March 1, 1982 (the effective date of the current National Master Freight Agreement) will maintain their seniority for the duration of the current Agreement which will expire on March 31, 1985. Under the previous Agreement workers maintained their seniority for 3 years while they were in layoff status.

This study and the prior studies analyze layoffs and layoff rates based on survey forms completed by local unions. We cannot determine from the survey data how many of the laid-off workers are technically "unemployed". Unemployment, as defined by the Bureau of Labor Statistics comprises: "All persons who did not work during the survey week, who made special efforts to find a job within the last 4 weeks, and who are available for work during the survey week (except for temporary illness). Also included as unemployed are those who did not work at all, were available for work."[5]

The Bureau of Labor Statistics defines as employed: "all those who during the survey week did *any work at all* as paid employees . . ."[6] (emphisis supplied).

We believe that few of our laid-off members have found other employment within the jurisdiction of their local unions. In 1982 one of our large local unions verified their membership records and determined that with the overall drop in membership it would not have been possible for laid-off workers covered by this survey to have obtained other employment in establishments covered by the local union's collective bargaining agreement. We believe the situation is about the same today.

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[5] Source: *Employment and Earnings, April, 1982,* U.S. Department of Labor, Bureau of Labor Statistics, Page 145.

[6] Op-Cit.

To determine "unemployment", as defined by the Bureau of Labor Statistics, will require an extensive study which we believe should be made by the Federal Government. We have previously offered to cooperate in this endeavor. To date, no government agency has accepted our offer to interview IBT local union officials in the trucking industry.

It is also not possible to determine the length of layoff from the survey forms. A separate study was conducted by the Economics Department for April, 1983.

The thirty seven local unions were selected on the basis of size and geographical location. While some 313 local unions affiliated with the IBT have members covered by the National Master Freight Agreement or the Chicago Trucking Agreement, the 37 selected local unions seniority lists in 1983 cover about 33% of the total members employed by I.C.C. regulated general freight carriers.

In some geographic areas only one IBT local union has jurisdiction under the NMFA while in other geographic areas several local unions share the jurisdiction. In addition, in some areas different local unions may have jurisdiction based on job classifications. For example, one local union for over-the-road drivers and different local unions for local cartage workers. While our sample is not technically a ramdom sample, we believe it is representative of the entire regulated general freight industry represented by the IBT.[7]

We did not estimate the layoff rates and layoffs for the entire IBT represented regulated motor carrier industry in this report, which is limited to the IBT represented regulated general freight motor carrier industry.

We did not include data for several Large Class I motor carriers of general freight that have been on strike including T.I.M.E.-D.C. & Mason & Dixon Lines.

TABLE 1.1—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT SURVEY OF REPRESENTATIVE LOCAL UNIONS LAYOFF OF ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS, AND TERMINAL WORKERS APRIL 1984

Conference/local	Empolyed	Layoff	Total on seniority list	Percent on layoff
Eastern conference:				
Local 25	1,505	460	1,965	23.4
Local 28	646	307	953	32.2
Local 107	1,875	723	2,598	27.8
Local 294	637	323	960	33.6
Local 391	2,337	1,045	3,382	30.9
Local 445	655	82	737	11.1
Local 557	1,617	1,071	2,638	39.8
Local 592	277	346	623	55.5
Local 776	2,301	198	2,499	7.9
Subtotals (9 locals)	11,850	4,555	16,405	27.8
Central conference:				
Local 20	1,905	697	2,6.02	26.8
Local 41	3,290	1,191	4,481	26.6
Local 89	1,192	934	2,126	43.9
Local 120	2,128	1,001	3,129	32.0
Local 135	3,496	851	4,347	19.6
Local 200	2,680	1,306	3,986	32.8
Local 299	2,099	911	3,010	30.3
Local 413	2,198	746	2,944	25.3
Local 554	1,198	551	1,749	31.5
Local 705	2,944	1,144	4,088	28.0
Local 710	3,329	1,333	4,662	28.6
Subtotals (11 locals)	26,459	10,665	37,124	28.7

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[7] Excluded from this report are owner-drivers (owner-operators).

TABLE 1.1—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT SURVEY OF REPRESENTATIVE LOCAL UNIONS LAYOFF OF ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS, AND TERMINAL WORKERS APRIL 1984—Continued

Conference/local	Empolyed	Layoff	Total on seniority list	Percent on layoff
Southern conference:				
Local 480	1,833	679	2,512	27.0
Local 667	2,373	1,162	3,535	32.9
Local 728	2,248	531	2,779	19.1
Local 745	2,505	1,582	4,087	38.7
Local 886	1,686	594	2,280	26.1
Subtotals (5 locals)	10,645	4,548	15,193	29.9
Western conference:				
Local 17	1,174	1,007	2,181	46.2
Local 70	835	533	1,368	39.0
Local 81	1,215	418	1,633	25.6
Local 104	1,068	164	1,232	13.3
Local 468	223	164	387	42.4
Local 631	173	49	222	22.1
Local 741	1,065	53	1,118	4.7
Local 961	444	203	647	31.4
Subtotals (8 locals)	6,197	2,591	8,788	29.5
Grand totals averages	55,151	22,359	77,510	28.8

Note: Table includes employees of carriers that terminated operations between July 1, 1980 and April 1984. Does not include owner-drivers, office and maintenance workers.

TABLE 1.2.—*National Master Freight Agreement and Chicago Trucking Agreement, survey of representative local unions layoff rate: road drivers, pickup and delivery drivers, and terminal workers, United States, April 1984 NMFA layoff study*

Number of local unions	33
Average layoff rate by local union [1] (sample mean—percent)	28.99
Sample standard deviation: T test equals 2.040 (percent)	10.77
Estimate of layoff rate at 95 percent level of confidence (percent)	25.17-32.81
Estimate of number on layoffs, April 1984	75.510-98.430

[1] Unweighted sample mean of layoff rate for each local union in sample.

Note: Table excludes maintenance and office workers and owner-drivers. Table includes employees of motor carriers that terminated operations since July 1980.

Estimate of layoff rate in I.C.C. regulated general freight industry represented by IBT.

Carriers in operation April, 1984 and carriers who terminated operations since July 1, 1980.

TABLE 1.3.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS AND TERMINAL WORKERS LAYOFF RATES BY AREA CONFERENCE: APRIL 1984

	Eastern conference	Central conference	Southern conference	Western conference
Number of local unions	9	11	5	3
Average layoff rate by local union (sample mean)	29.19	29.58	28.76	28.09
Sample standard deviation	14.35	6.03	7.41	14.49
T-Test	2.302	2.22	2.776	2.365
Estimated layoff rate 95% degree of confidence (in percent)	18.18 to 40.20	25.53 to 33.63	19.56 to 37.96	15.97 to 40.21

Notes: Table excludes maintenance and office workers owner-drivers. Table includes employees of motor carriers that terminated operations since July 1, 1980.

TABLE 1.4.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS: ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS AND TERMINAL WORKERS DISTRIBUTION OF LAYOFF RATES: APRIL 1984

	Number of locals	Percent of local unions	Cumulative percentage
Layoff rates (percent):			
Less than 15.00	4	12.1	12.1
15.00 to 19.99	2	4.1	18.2
20.00 to 24.99	2	6.1	24.4
25.00 to 29.99	9	27.3	51.7
30.00 to 34.99	9	27.3	79.0
35.00 to 39.99	3	9.1	88.1
40.00 to 44.99	2	6.1	94.2
45.00 and over	2	6.1	100.0
Totals	33	100.0	100.0

Notes: Table excludes maintenance and office workers and owner drivers. Table includes employees of motor carriers that terminated operations since July 1, 1980.

TABLE 1.5.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS: ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS AND TERMINAL WORKERS DISTRIBUTION OF LAYOFF RATES FOR 1981–84

	April 1981	April 1982	April 1983	April 1984
Layoff rates (percent):				
Less than 15.00	7	1	3	4
15.00 to 19.99	9	5	2	2
20.00 to 24.99	12	8	4	2
25.00 to 29.99	2	7	5	9
30.00 to 34.99	5	11	5	9
35.00 to 39.99	2	3	9	3
40.00 to 44.99	0	0	5	2
45.00 and over	0	2	3	2
Totals	37	37	36	33
Median average (percent)	21.0	28.2	34.0	29.7

Notes: Table excludes maintenance and office workers and owner drivers. Table includes employees of motor carriers that terminated operations since July 1, 1980.

TABLE 1.6.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS AND TERMINAL WORKERS LAYOFF RATES: APRIL 1983 AND APRIL 1984

Conference/local	Layoff rate April 1983	Layoff rate April 1984	12-month change in layoff rate
Eastern conference:			
Local 25	19.5	23.9	4.4
Local 28	53.7	32.2	−21.5
Local 107	42.0	27.8	−14.2
Local 294	39.6	33.6	−6.0
Local 391	40.2	30.9	−9.3
Local 445	30.9	11.1	−19.8
Local 557	45.1	39.8	−5.3
Local 592	45.7	55.5	9.8

TABLE 1.6.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, ROAD DRIVERS, PICKUP AND DELIVERY DRIVERS AND TERMINAL WORKERS LAYOFF RATES: APRIL 1983 AND APRIL 1984—Continued

Conference/local	Layoff rate April 1983	Layoff rate April 1984	12-month change in layoff rate
Local 707	19.6	(1)	(1)
Local 776	12.6	7.9	−4.7
Subtotals			
Central conference:			
Local 20	33.2	26.8	−6.4
Local 41	25.6	26.6	1.0
Local 89	40.8	43.9	3.1
Local 120	38.6	32.0	−6.6
Local 135	(1)	19.6	(1)
Local 200	38.5	32.8	−5.7
Local 299	38.7	30.3	−8.4
Local 413	37.0	25.3	−11.7
Local 554	37.7	31.5	−6.2
Local 705	27.1	28.0	0.9
Local 710	25.3	28.6	3.3
Local 600	(1)	(1)	(1)
Subtotals			
Southern conference:			
Local 480	39.2	27.0	−12.2
Local 667	41.9	32.9	−9.0
Local 728	24.6	19.1	
Local 745	38.3	38.7	0.4
Local 886	33.0	26.1	−6.9
Subtotals			
Western conference:			
Local 17	33.5	46.2	12.7
Local 70	38.8	39.0	0.2
Local 81	21.5	25.6	4.1
Local 63	31.4	(1)	
Local 104	23.2	13.3	−9.9
Local 208	(1)	(1)	
Local 224	22.8	(1)	
Local 468	44.8	42.4	−2.4
Local 631	12.0	22.1	10.1
Local 741	7.4	4.7	−2.7
Local 961	27.2	31.4	4.2
Subtotals			

[1] Not available.

Column C: Equals column B minus column A.

Note: Table excludes office and maintenance workers and owner-drivers. Table includes employees of carriers that terminated operations since July 1, 1980.

TABLE 1.7.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, CARRIERS WHO TERMINATED OPERATIONS AFTER JULY 1, 1980, NUMBER OF CARRIERS AND EMPLOYEES

Conference/local	Number of carriers	Number of road drivers and local cartage employees on seniority lists
Eastern conference:		
Local 25	8	188
Local 28	4	219
Local 107	14	366
Local 294	10	153
Local 391	8	680
Local 445	4	57
Local 557	19	762
Local 592	8	109
Local 776	4	109
Subtotals	(1)	2,643
Central conference:		
Local 20	9	265
Local 41	7	251
Local 89	20	289
Local 120	10	516
Local 135	14	289
Local 200	24	538
Local 299	26	379
Local 413	16	412
Local 554	7	202
Local 705	19	435
Local 710	45	640
Subtotals	(1)	4,216
Southern conference:		
Local 480	14	504
Local 667	6	785
Local 728	2	83
Local 745	3	536
Local 886	5	101
Subtotals	(1)	2,009
Western conference:		
Local 17	4	532
Local 70	4	45
Local 81	4	145
Local 104	1	19
Local 468	6	47
Local 631	1	2
Local 741	0	0
Local 961	8	131
Subtotals	(1)	921
Grand totals/averages		9,789

[1] Not available.

Local cartage employees include pickup and delivery drivers and terminal workers but exclude office and maintenance workers, road drivers and owner-drivers.

TABLE 1.8—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, OVER-THE-ROAD DRIVERS, LAYOFFS AND LAYOFF RATES, APRIL 1984

Conference/local	Employed	Number layoff	Total on seniority	Percent on layoff
Eastern conference:				
Local 25	91	8	99	8.1
Local 28	242	56	298	18.8
Local 107	202	20	222	9
Local 294	138	9	147	6.1
Local 391	959	244	1,203	20.3
Local 445	71	1	72	1.4
Local 557	344	43	387	11.1
Local 592	52	43	95	45.3
Local 776	1,112	64	1,176	5.4
Subtotals	3,211	488	3,699	13.2
Central conference:				
Local 20	1,264	266	1,530	17.4
Local 41	1,349	402	1,751	23
Local 89	439	151	590	25.6
Local 120	354	55	409	13.4
Local 135	1,591	248	1,839	13.5
Local 200	877	143	1,020	14
Local 299	241	69	310	22.3
Local 413	1,022	105	1,127	9.3
Local 554	521	70	591	11.8
Local 710	2,271	518	2,789	18.6
Local 600	879	107	986	10.9
Subtotals	10,808	2,134	12,942	16.5
Southern conference:				
Local 480	960	81	1,041	7.8
Local 667	1,065	114	1,179	9.7
Local 728	782	116	898	12.9
Local 745	696	189	885	21.4
Local 886	945	389	1,334	29.2
Subtotals	4,448	889	5,337	16.7
Western conference:				
Local 81	345	83	428	19.4
Local 104	453	29	482	16
Local 468	223	117	340	34.4
Local 631	13	2	15	13.3
Local 741	169	4	173	2.3
Local 961	444	72	516	14
Subtotals	1,647	307	1,954	15.7
Grand totals/averages	20,114	3,818	23,932	16

Note: Includes employees of motor carriers that were operating on April 1, 1983.

TABLE 1.9—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, LOCAL CARTAGE WORKERS (PICKUP AND DELIVERY DRIVERS AND DOCK WORKERS) LAYOFFS AND LAYOFF RATES: APRIL 1984

Conference/local	Employed	Number layoff	Total on seniority list	Percent on layoff
Eastern conference:				
Local 25	1,414	264	1,678	15.7
Local 28	404	32	436	7.3
Local 107	1,673	337	2,010	16.8
Local 294	499	161	660	24.4
Local 391	1,378	121	1,499	8.1
Local 445	584	24	608	3.9
Local 557	1,273	266	1,539	17.3
Local 592	225	194	419	46.3
Local 707				
Local 776	1,189	25	1,214	2.1
Subtotals	8,639	1,424	10,063	14.2
Central conference:				
Local 20	641	166	807	20.6
Local 41	1,941	538	2,479	21.7
Local 89	753	494	1,247	39.6
Local 120	1,774	430	2,204	19.5
Local 135	1,905	314	2,219	14.2
Local 200	1,803	625	2,428	25.7
Local 299	1,858	463	2,321	19.9
Local 413	1,176	229	1,405	16.3
Local 554	677	279	956	29.2
Local 705	2,994	709	3,653	19.4
Local 710	1,058	175	1,233	14.2
Local 600	1,496	560	2,056	27.2
Subtotals	18,026	4,982	23,008	21.7
Southern conference:				
Local 480	873	94	967	9.7
Local 667	1,308	263	1,571	16.7
Local 728	1,466	332	1,798	18.5
Local 745	1,809	857	2,666	32.1
Local 886	741	104	845	12.3
Subtotals	6,197	1,650	7,847	21
Western conference:				
Local 17	1,174	475	1,649	28.8
Local 70	835	488	1,323	36.9
Local 81	870	190	1,060	17.9
Local 104	615	116	731	15.9
Local 631	160	45	205	22
Local 741	896	49	945	5.2
Local 961				
Subtotals	4,550	1,363	5,913	23.1
Grand totals/averages	37,412	9,419	46,831	20.1

Note: Local cartage employees including pickup and delivery drivers and terminal workers but exclude office and maintenance workers, and road drivers and owner-drivers. Table includes employees of motor carriers that were operating on April 1, 1983.

TABLE 2.2.—*Survey of representative local unions layoff rate: road drivers, pickup and delivery drivers, and terminal workers, United States, April 1984 NMFA layoff study*

Number of local unions	34
Average layoff rate by local union [1] (sample mean—percent)	19.24
Sample standard deviation: T-test equals 2.039 (percent)	9.35
Estimate of layoff rate at 95 percent level of confidence (percent)	15.97-22.51

Estimate of number on layoffs, April 1984 .... 43.119-60.777

[1] Unweighted sample mean of layoff rate for each local union in sample.

Note: Table excludes maintenance and office workers and owner-drivers. Table also excludes employees of motor carriers that terminated operations before April 1983. Based on 270,000 total employees.

Estimate of layoff rate in I.C.C. regulated general freight industry represented by IBT.

Carriers in operation April 1984.

TABLE 2.10.—NATIONAL MASTER FREIGHT AGREEMENT AND CHICAGO TRUCKING AGREEMENT, SURVEY OF REPRESENTATIVE LOCAL UNIONS, ROAD DRIVERS AND LOCAL CARTAGE WORKERS: LAYOFFS AND LAYOFF RATES, APRIL 1984: CARRIERS IN OPERATION, APRIL 1984

Conference/local	Employed	Layoff	Total on seniority list	Percent on layoff
Eastern conference:				
Local 25	1,505	272	1,777	15.3
Local 28	646	88	734	12.0
Local 107	1,875	357	2,232	16.0
Local 294	637	170	807	21.1
Local 391	2,337	365	2,702	13.5
Local 445	655	25	680	3.7
Local 557	1,617	309	1,926	16.0
Local 592	277	237	514	46.1
Local 776	2,301	89	2,390	3.7
Subtotals (9 locals)	11,850	1,912	13,762	13.9
Central conference:				
Local 20	1,905	432	2,337	18.5
Local 41	3,290	940	4,230	22.2
Local 89	1,192	645	1,837	35.1
Local 120	2,128	485	2,613	18.6
Local 135	3,496	562	4,058	13.8
Local 200	2,680	768	3,448	22.3
Local 299	2,099	532	2,631	20.2
Local 413	2.198	334	2,532	13.2
Local 554	1,198	349	1,547	22.6
Local 705	2,944	709	3,653	19.4
Local 710	3,329	693	4,022	17.2
Local 600	2,375	667	3,042	21.9
Subtotals (12 locals)	28,834	7,116	35,950	19.8
Southern conference:				
Local 480	1,833	175	2,008	8.7
Local 667	2,373	377	2,750	13.7
Local 728	2,248	448	2,696	16.6
Local 745	2,505	1,046	3,551	29.5
Local 886	1,686	493	2,179	22.6
Subtotals (5 locals)	10,645	2,539	13,184	19.3
Western conference:				
Local 17	1,174	475	1,649	28.8
Local 70	835	488	1,323	36.9
Local 81	1,215	273	1,488	18.3
Local 104	1,068	145	1,213	12.0
Local 468	223	117	340	34.4
Local 631	173	47	220	21.4
Local 741	1,065	53	1,118	4.7
Local 961	444	72	516	14.0
Subtotals (8 locals)	6,197	1,670	7,867	21.2
Grand totals/averages	57,526	13,237	70,763	18.7

Excludes employees of motor carriers that terminated operations since July 1, 1980 (before April 1983). Table also excludes office and maintenance workers and owner drivers.

APPENDIX A.—NATIONAL MASTER FREIGHT AGREEMENT LAYOFFS AND LAYOFF RATES, APRIL 1984

Conference local	Carriers employed	Office employees operating April 1, 1983		Percent on layoff
		Layoff	Total	
Eastern conference:				
Local 25	43	8	51	15.7
Local 28	5	8	13	61.5
Local 107				
Local 294	7	1	8	12.5
Local 391	76	5	81	6.2
Local 445				
Local 557	26	7	33	21.2
Local 592	3	7	10	70.0
Local 707				
Local 776	9	0	9	0.0
Subtotals (7 locals)	169	36	205	17.6
Central conference:				
Local 20	35	3	38	7.9
Local 41				
Local 89	39	34	73	46.6
Local 120	59	35	94	37.2
Local 135	132	24	156	15.4
Local 200	98	27	125	19.7
Local 299	272	45	317	14.2
Local 413				
Local 554	42	18	60	30.0
Subtotals (7 locals)	677	186	863	21.6
Southern conference:				
Local 480	67	6	73	8.2
Local 667	131	10	141	7.1
Local 728	115	28	143	19.6
Local 745	219	76	295	25.8
Local 886	109	22	131	16.8
Subtotals (5 locals)	641	142	783	18.1
Western conference:				
Local 70	6	0	6	0.0
Local 104	71	17	88	19.3
Local 961	91	8	99	8.1
Local 763	186	44	230	19.1
Subtotals (4 locals)	354	69	423	16.3
Grand total (23 locals)	1,841	433	2,274	19.0

APPENDIX B.—NATIONAL MASTER FREIGHT AGREEMENT, LAYOFFS AND LAYOFF RATES, APRIL 1, 1984

[Carriers operating April 1, 1983]

Conference/local	Maintenance workers			Percent on layoff
	Employed	Layoff	Total	
Eastern conference:				
Local 25	20	2	22	9.1
Local 28	10	17	27	63.0
Local 107				
Local 294	32	6	38	15.8
Local 391	382	61	443	13.8
Local 445	22	0	22	0.0
Local 557	47	45	92	48.9
Local 592	1	45	46	97.8

APPENDIX B.—NATIONAL MASTER FREIGHT AGREEMENT, LAYOFFS AND LAYOFF RATES, APRIL 1, 1984—Continued

[Carriers operating April 1, 1983]

Conference/local	Maintenance workers			Percent on layoff
	Employed	Layoff	Total	
Local 707				
Local 776	312	25	337	7.4
Subtotal (8 locals)	826	201	1,027	19.6
Central conference:				
Local 20	127	3	130	2.3
Local 41				
Local 89	78	20	98	20.4
Local 120	11	4	15	
Local 135	264	60	324	18.5
Local 200	48	5	53	9.4
Local 299	74	5	79	6.3
Local 413				
Local 554	13	3	16	18.8
Local 705				
Local 710				
Local 600				
Subtotal (7 locals)	615	100	715	14.0
Southern conference:				
Local 480	201	22	223	9.9
Local 667	237	25	262	9.5
Local 728	247	60	307	19.5
Local 745	346	49	395	12.4
Local 886	104	0	104	0.0
Subtotal (5 locals)	1,135	156	1,291	12.1
Western conference:				
Local 961	56	19	75	25.3
Local 763	66	11	77	14.3
Subtotal (2 locals)	122	30	152	19.7
Grand total (22 locals)	2,698	487	3,185	15.3

APPENDIX C.—LISTING OF LOCALS FOR NMFA AND CHICAGO EMPLOYMENT SURVEY, APRIL 1984

LOCAL UNIONS

Eastern conference:	
Local 25	Boston, MA.
Local 445	Yonkers, NY.
Local 107	Philadelphia, PA.
Local 391	Greensboro, NC.
Local 294	Albany, NY.
Local 592	Richmond, VA.
Local 28	South Carolina, West and Central
Local 776	Harrisburg, PA.
Local 557	Baltimore, MD.
Central conference:	
Local 41	Kansas City, MO.
Local 135	Indianapolis, IN
Local 710	Chicago, IL.
Local 200	Milwaukee, WI.

APPENDIX C.—LISTING OF LOCALS FOR NMFA AND CHICAGO EMPLOYMENT SURVEY, APRIL 1984—Continued

Local 120	St. Paul, MN.
Local 89	Louisville, KY.
Local 20	Toledo, OH.
Local 554	Omaha, NE.
Local 413	Columbus, OH.
Local 705	Chicago, IL (P&D).
Local 299	Detroit, MI.
Local 600	St. Louis, MO.
Southern conference:	
Local 745	Dallas, TX.
Local 728	Atlanta, GA.
Local 667	Memphis, TN.
Local 886	Oklahoma City, OK.
Local 480	Nashville, TN.
Western conference:	
Local 70	Oakland, CA (L.C.).
Local 17	Denver, CO.
Local 104	Phoenix, AZ (L.C.).
Local 631	Las Vegas, NV.
Local 81	Portland, OR.
Local 961	Denver, CO (Line Drv).
Local 741	Seattle, WA.
Local 468 (merged into Local 70)	Oakland, CA (Road Dri).

EMPLOYMENT SURVEY FORM - APRIL, 1984

I.C.C. REGULATED MOTOR CARRIERS ONLY

NATIONAL MASTER FREIGHT AGREEMENT & SUPPLEMENTAL AGREEMENTS & CHICAGO TRUCKING AGREEMENT

LOCAL UNION # ______________

COMPANY NAME ______________________________________

TERMINAL LOCATION (City & State) ____________________________

April 1, 1984

Job Classification	Number of Full Time Workers Employed 1/	Number of Full Time Workers on Layoff 2/	Total Number On Seniority List 1/ 2/
Line Drivers (O-T-R)			
Local Cartage (Pick-up-Delivery Drivers & Dock Workers, Switchers & Hostlers)			
SUB TOTAL			
Office 3/			
Maintenance 3/			
GRAND TOTAL			

1/ Include all full time employees on active payroll including vacations, sick leave, jury duty.

2/ Include all employees on layoff who maintain seniority under the Agreement.

3/ Include office or maintenance employees where these employees are covered by Supplemental Agreements or Riders to National Master Freight Agreement or carriers that were covered under 1979 NMFA that requested independent negotiations in 1982.

Include carriers who were covered by the 1979 National Master Freight Agreement and requested independent negotiations in 1982, or carriers that were covered under 1979 NMFA that requested independent negotiations in 1982.

Please complete a separate survey form for each company in your jurisdiction under the National Master Freight Agreement or Supplemental Agreements or carriers covered under 1979 NMFA that requested independent negotiations in 1982.

NOTE: Include any terminals that have closed since April 1, 1983 with date of closing: ______________________________

Survey Completed by: Name & Local ______________________

TITLE: ______________________

DATE: ______________________

Please return completed survey forms as soon as possible to:
Norman A. Weintraub, Chief Economist
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001

[Supplemental Report To 1984 NMFA Layoff Survey]

ICC Regulated Motor Carriers of General Freight That Terminated General Freight Operations From July 1, 1980 To September 1, 1984

As of September 1, 1984 we have identified 53 general freight motor carriers (Class I & II, I.C.C. regulated) that terminated general freight operations since the enactment of the Motor Carrier Act of 1908. The 53 carriers employed 66,128 persons in 1979 and had total operating revenues of $3,081.7 million in 1979.

The terminated general freight operations represented 18.1% of the total number of persons employed by all Class I & II I.C.C. regulated general freight carriers in 1979 and 18.1% of the total operating revenue of those 728 carriers in 1979, however, the 53 identified carriers represent only 7.3% of the 728 I.C.C. regulated general freight Class I & II motor carriers in active operation in 1979.

Some of the 53 carriers may be continuing owner-operator operations. The listing of 53 carriers does not include several carriers that are in Chapter XI bankruptcy status but are still operating or operating at a reduced rate. It also does not include Class III general freight carriers or specialized I.C.C. regulated carriers that may have terminated operations.

CLASS I AND II—ICC REGULATED MOTOR CARRIERS OF GENERAL FREIGHT UNDER NMFA TERMINATED OPERATIONS SINCE JULY 1, 1980 TO SEPT. 1, 1984

	Number of carriers	Number of employees [1] 1979	1979 operating revenues (dollars in millions)
Terminated operations [2]	53	66,128	$3,081.7
Total class I and II general freight carriers in 1979 [3]	728	364,647	$17,052.8
Percent of terminations [IBT] to total class I and II general freight carriers in 1979	7.3	18.1	18.1

[1] Includes all employees—not just IBT.

[2] Includes carriers that terminated general freight operations but may have continued owner-operator operations.

[3] Includes all carriers in category, union and non-union.

Source: Table 1 and "1979 Motor Carriers Annual Report, F&OS," American Trucking Association (for employment and operating revenues).

CLASS I AND II—ICC REGULATED MOTOR CARRIERS OF GENERAL FREIGHT UNDER NMFA TERMINATED OPERATIONS SINCE JULY 1, 1980 TO SEPT. 1, 1984

[Employment and operating revenues: 1979]

	Number of employees in 1979	1979 operating revenues (millions)
Spector Red Ball • [4]	7,610	$435.3
Jones Motor Co. [3]	3,547	147.5
Wilson Freight Co •	3,754	165.1
Johnson Motor Lines	2,515	94.6
T.I. M.E.—D.C. [3] (strike)	3,303	169.7
Motor Freight Express •	1,802	75.7
Gordon's Transport •	2,163	97.6
Maislin Transport • [2]	6,375	303.4
Hemingway Transport • (strike)	1,268	64.4
Mid American Lines •	971	43.5
Eazor Express • [3]	1,268	61.2
Cooper-Jarrett • [3]	1,532	66.3
Davidson Transfer [2]	697	30.2
Rio Grande Motor Lines [3]	648	23.1
Chief Freight Lines •	1,038	39.4
Boss Linco Lines •	1,012	48.3
Brada Miller Freight •	616	40.4
Courier Newsome Express •	475	23.6
Tennessee Carolina Transport	595	23.3
Perkins Trucking Co	399	15.1

CLASS I AND II—ICC REGULATED MOTOR CARRIERS OF GENERAL FREIGHT UNDER NMFA TERMINATED OPERATIONS SINCE JULY 1, 1980 TO SEPT. 1, 1984—Continued

[Employment and operating revenues: 1979]

	Number of employees in 1979	1979 operating revenues (millions)
Auclair Transportation Co	270	10.6
Chippewa Motor Freight [1]	382	18.1
Dean Truck Lines	158	6.1
Fox and Ginn	278	10.2
William Hayes Line	105	4.8
Nebraska—Iowa Express [a]	133	7.2
Pulaski Highway Express	154	4.9
Admiral Merchants [3] [a]	445	26.2
Standard Motor Freight	102	5.4
Waverly Transfer	34	1.8
Graf Brothers	129	4.6
Bowling Green Express [1]	187	6.7
American Freightways	90	4.3
P. Callahan	153	6.1
Badger Freightways	105	6.9
Murfreesboro Freight Line	44	2.5
Carpenters	39	1.4
Sims Motor [a]	82	14.3
GMW (Glendenning) [1]	828	27.6
Sioux Transportation [a]	151	6.8
North Shore & Central	195	9.3
Denver-Midwest	320	15.1
Intercity Transport	127	5.8
Silver Wheel Freight Lines [a]	818	23.9
Orscheln Brothers Truck Lines [1]	660	25.4
IML Freight [a]	3,624	159.1
Trucker Freight [a]	837	40.6
Midwest Emery Freight System [a]	993	103.9
Fowler & Williams [a]	348	12.2
Interstate Motor Freight [a]	5,536	232.9
Branch Motor Freight [a]	3,032	135.4
Briggs Transportation [a]	1,805	64.9
ICX (Three—California Express) [a]	2,373	108.9
Total	66,128	3,081.7

[a] Chapter XI proceedings leading to liquidation.

Include motor carriers of general freight under the NMFA that either terminated all operations or terminated general freight operations but may be continuing owner-operator operations.

[1] 1978 operating revenue and number of employees.

[2] Includes the following carriers in 1979: Maislin-Delaware: 1,379 employees—$77.4 million in revenues; Maislin Transport: 1,128 employees—$43.0 million in revenues; Gateway Transport: 3,253 employees—$147.4 million revenues; Quinn Freight Lines: 615 employees—$35.6 million in revenues.

[3] May be continuing other operations.

Note: 1980 employment & operating revenue (Merger of Spector Freight System, Inc. and Red Ball Motor which had a combined total of 9,310 employees and $449.8 million in operating revenue).

Table does not include carriers that terminated operations by merger, where surviving carriers are still in operation: for example, ABF [ETMF] & Halls (Dohrn Transfer). ETMF had 5,025 employees in 1979 while Dohrn Transfer had 1,642 employees in 1979. Employment is for all employees—not just for IBT. Other mergers include Ryder Truck Lines and Pacific Intermountain Express into Ryder-P.I.E. Nationwide in 1983 and Commercial Lovelace and Lee Way Motor Freight.

Some of the carriers may be iron and steel carriers.

Carriers in chapter XI but operating in June 1984—many with reduced operations.

	Numbers of employees 1979	1979 operating revenues (millions)
Mason & Dixon Lines (Central Transport)	3,627	$184.1
United Trucking Service	796	56.4

	Numbers of employees 1979	1979 operating revenues (millions)
Superior Forwarding (Central transport)	449	17.6
General Highway Express	558	22.0
U.S. Truck Co. (Central)	275	22.6
Liberty Trucking	281	10.7
Total	5,986	302.7

Source: "1979 Motor Carrier Annual Report F&OS," American Trucking Associations (for employment and operating revenue).

The CHAIRMAN. Next, we will take Mr. James Voytko, vice president and transportation analyst for Paine, Webber.

Did I pronounce the name right?

Mr. VOYTKO. Voytko, it's pronounced phonetically.

The CHAIRMAN. Thank you. Happy to have you with us.

STATEMENT OF JAMES VOYTKO, VICE PRESIDENT AND TRANSPORTATION ANALYST, PAINE, WEBBER, INC.

Mr. VOYTKO. I am happy to be here, Mr. Chairman. I believe I was asked here to respond to two questions: how trucking companies have fared under the partial deregulation in the Motor Carrier Act, and how does Wall Street or the investment community generally view the truckers.

I will talk thematically today, rather than present the results of a comprehensive statistical study. Nevertheless, I think there is a great deal of evidence to support the conclusions I offer you today. The first one is that clearly, deregulation has spawned a meritocracy in the trucking industry. I do not think there is much doubt that there are two factors that have predominantly determined whether a trucking company has succeeded under deregulation or not. One is how efficient or cost effective they have been in producing their services, and the second is how successful they have been in meeting the specific service requirements of shippers at competitive rates.

This meritocracy has, I believe, been healthy because it has rewarded the companies who have done well, done well in controlling costs, in taking full advantage of all the freedoms that the Congress has provided this industry, and in providing services that shippers find attractive. And there is no secret in trying to figure out which carriers are doing that; all you have to do is follow the freight.

In fact, I think this last point should not be passed over lightly. These companies and others that are succeeding in the industry—and there are many of them; some examples are included in my written testimony—are doing so not because regulators in Washington are suppressing their competition or artificially inflating their rates, but because shippers, even with the myriad alternatives that they have to choose from, are still giving them their freight. To paraphrase one of my competitor's television ads, the successful trucking companies are gaining market share the old-fashioned way: They are earning it.

Now, the question is, in any industry or in any environment where there is a lot of change, even if the net change is definitely for the better, it may leave some behind. The question for this committee is what should you make of it. There is no question that there have been bankruptcies, certainly over 350. There is no question that we should sympathize with people whose employment has been dislocated. Moreover, I might add now, if I may, from a Wall Street perspective, the owners and the stockholders of these firms ought to draw some sympathy as well. But should we really change public policy because some firms have not done as well as others when, in fact, the evidence is—and I think you have heard it from the witnesses who have preceded me at this table—that the industry is doing quite well. The freight is moving and there is a lot of service to small communities.

The carriers who have demonstrated an ability to provide cost-effective services are indeed prospering, and there are many more of them. The freight is moving. And therefore, it seems unusual to take the step of either retrenching or dramatically changing a series of needed reforms that are working out fine in the aggregate because some carriers have not been able to take advantage of the freedoms that were given them as well as others.

Another point I would like to make is that there is a great deal of evidence, albeit anecdotal, that deregulation has prompted innovation and modernization within the industry. I will just give three examples. One is that there has been no question, certainly regarding the companies that I deal with, that they have substantially increased the attention given to their marketing, their pricing and their costing. In fact, since 1980, dozens upon dozens of new pricing plans and marketing plans have been introduced, some with the aim of simplifying rates and the rate structure, some with matching service commitments to the requirements of shippers and some with matching rates more closely to actual costs. There has been a virtual explosion of attention to this area.

Another innovation is the explosion, and I think that is a fair statement, in rail/truck service links, such as those instituted by several regional carriers which have linked up with either operating partners or subsidiaries across the country. In doing so they are providing a whole new service that was not often available to shippers in the past.

Something near and dear to people who have worked on this issue in the past is service to small communities. We have examples of companies that indeed are expanding into small communities small, mobile terminals to attract freight where larger, more expensive fixed terminals are too costly.

A point I think is also worth making is that deregulation is creating a new realism between labor and management about what kind of labor rates and practices the industry can bear, and what shippers are going to be willing to pay for.

Discounting is another subject that is very topical at the moment. To me, the rate of discounting and the attention that it is getting indicates, in part, the very inflated Rate Bureau rates (or what we are now calling "list rates" as opposed to market clearing rates). Trucking rates have been and will continue to be volatile, but there is no indication that it is severely affecting the ability of healthy carriers to deliver services.

Let me just say, in summary, that if you look at what investors are paying for trucking stocks, though admittedly only a small portion of the trucking industry is publicly owned, there is no indication that they are paying less for a given dollar of trucking earnings than they are paying for earnings of companies in other industries. Moreover, in my experience there seems to be no indication that investors think poorly of the trucking companies that are publicly traded. In fact, some of these trucking companies actually command premium prices in the stock market.

Thank you very much for the opportunity to appear here this morning. I would be happy to answer any questions you might have.

The CHAIRMAN. Your statement about discounting reminds me of the fellow—I cannot remember who it was—that, in essence, said that is the gold necklace theory, all of these gold necklaces that you see advertised for 75 percent off of retail, as if that was the retail price. The rate-set price is not the going price, and people discount from it, and everyone knows it.

Mr. VOYTKO. That is exactly right, Mr. Chairman. If you were to continue to raise Bureau rates through the collective-ratemaking process, one could quite conceivably come to a point where the market-clearing price was perhaps 90 percent or 95 percent below the, Bureau tariff or "list price." But I am not at all sure that would indicate that there was severe discounting. Who would know?

The CHAIRMAN. Give me your judgment as to whether, as we have come out of the recession, the trucking industry has fared better or worse than—in generic terms—the other industries, if you can answer that.

Mr. VOYTKO. Well, many people certainly in the investment community have drawn parallels between airline deregulation and trucking deregulation, and I think some of them are quite fair. For example, new entrants in both industries who have come in with higher productivity and a service more closely matched to what the customers were asking for have done well. And it really has not mattered too much about their size.

We have seen, for example, trunk airlines get religion on cost control and do well. I have included a couple of examples in my written testimony. And I think if you look at what passes for the parallel of the trunk airlines, the large nationwide LTL carriers, many of them are getting religion on cost control as well because they are feeling the pressure of competition from lower cost modes.

There are parallels. It is interesting that in both cases, the customers of these industries, airlines and trucking, are doing well under deregulation and they are having a greater say in the kind of services that are provided and the prices are provided. The airlines and truckers which are prospering are satisfying their customers while controlling costs. It seems to me a very healthy process, one that I think justifies continuing along the path of reform.

The CHAIRMAN. I think there is some parallel comparison. I remember on the day that airline deregulation went into effect, Braniff filed for 60 or 70 new locations. I mean the first day of the act. And I thought to myself, there is something wrong with that. If they have enough airplanes currently to serve those locations, they have been very badly managed in the past, and they have an excess of capacity. If they don't, and they are going to go out and borrow enough money to serve those locations, they are going to be spread out very thin, and if everything does not go perfectly, they are not going to make it. And surely, that is exactly what happened.

And, conversely, some of the feeder lines that have now even changed names—the old Alleghenys that are U.S. Airs and Frontiers and the North Central Airlines—that looked at their market, thought where could they have a hub—not in O'Hare Airport or Denver or Atlanta—but where could they have a hub that they could rationally work out of, that would be delighted to have them as an industry in that town. They gradually moved outward, have done very well and they have been very intelligent in their decisions as to where they chose to move.

I think you can see some of that in the trucking industry.

Mr. VOYTKO. I think you are right, Mr. Chairman. If you look over the list of truckers, you will find many of them that have carved out niches. I will use some names here. Viking Freight in California has carved out a pickup and distribution niche that is regional, well identified, and they have done very well in it. Ryder System has decided to invest money into the auto-hauling business at a time when nobody else had faith in the auto-hauling business, and indeed they have had a substantial payoff. Leaseway Transportation is another example of that same investment.

In fact, one of the things that I would say is most important in determining whether or not the industry has good prospects or not is to look at the successful carriers and ask whether or not they are investing some of their own stockholders' money into new operations. I would suggest that there is no greater test of the faith in the prospects for the trucking industry as investing some of your own hard-earned money in it.

And, in fact, we find a terrific rate of investment in new equipment and in terminals over the past 4 years among these successful carriers. I think that this is a real pledge of confidence in the future of the industry by folks who ought to know.

The CHAIRMAN. I have no more questions. Senator Pressler may. But let me thank you. It is a pleasure to have a witness who is sufficiently detached from the operation of the industry, and yet is sufficiently an observer of it that can comment reasonably objectively. And you clearly bring to this committee an expertise that no one else could do, and I thank you.

Mr. VOYTKO. Well, I thank you for the compliment, Mr. Chairman.

The CHAIRMAN. Larry.

Senator PRESSLER. Mr. Chairman, I do have a brief opening statement, if I could make that. But let me say I have just come from filming a television show on "It's Your Business," the Chamber of Commerce, in which I had the pleasure of describing—under airline deregulation—when I flew back from the Republican Convention from Dallas to Rapid City, SD, I had to go through Denver. I could not buy a ticket all the way from Dallas to Rapid City, because American Airlines does not have an agreement with Continental, so I had to fly to Denver, recheck my bags, go get my bag, and buy a new ticket.

So I just wanted to report that to you.

But I am a strong opponent of deregulation. And, Mr. Chairman, I will keep my opening remarks fairly brief. I do want to make a few points from the perspective of rural America regarding this issue, which is not airline deregulation, and I am sure we will see another rosy picture of the trucking industry painted here today in this Washington hearing, but I disagree with those who paint with that brush.

Things are not so rosy in the Midwest. As you know, I held a followup oversight field hearing in Sioux Falls, SD on December 15, 1983 after last year's Washington hearing. I heard a much different story about the effect of trucking deregulation then, and much different, I am sure, than we will hear today.

In essence, the truckers, shippers, and small business people testifying at the South Dakota hearing said that the rates were higher, indeed even discriminatory. Service was poor, and business people had less control over their inventories.

We also discussed the much-touted ICC small community study and found many problems and inconsistencies with that work. Mr. Chairman, I may say that is not a very scientific study. I can give some examples, but I will put them in the record. They are already in the record.

It was also pointed out that there is virtually no enforcement of the areas over which we supposedly retain control. I do not mean to be picking on the ICC here. Their resources are quite limited in these areas, and their mandate from Congress is less than crystal clear.

Many of my constituents have commented very favorably on the few ICC personnel they have been in contact with, and I commend Chairman Taylor and the Commission for that. But the fact remains that there are problems.

Finally, I want to touch just briefly on the safety aspects of deregulation. Some argue that we must maintain insurance and safety requirements, but that we should completely deregulate everything else. While this may sound logical at first glance, regardless of your philosophical point of view on deregulation, I fail to see how we are going to be able to effectively enforce those provisions without some type of regulatory framework.

The safety hazards of deregulation were also well documented in the December 15, 1983 Sioux Falls field hearing and I commend it to your attention. The testimony is concise and to the point, and I believe it would be well worth the time of anyone interested in this subject to read that record.

With that, Mr. Chairman, I will conclude my formal remarks so we can get on with this hearing.

The CHAIRMAN. Thank you, Larry. Do you have any questions of this witness?

Senator PRESSLER. No.

Mr. VOYTKO. Thank you very much.

The CHAIRMAN. Thank you very much for coming.

[The statement follows:]

STATEMENT OF JAMES VOYTKO, VICE PRESIDENT, PAINE, WEBBER, INC.

Good morning Mr. Chairman and Members of the Committee: My name is James Voytko and I am a Vice President and a securities analyst covering transportation companies at Paine, Webber, Inc., a major brokerage and investment banking firm in New York. I formerly served in a variety of Federal agencies including the Interstate Commerce Commission, the Department of Energy, and the Environmental Protection Agency. I appreciate the opportunity to appear here today to give my response to two questions posed to me by this committee:

How have trucking companies fared under the partial deregulation enacted in the Motor Carrier Act of 1980?

How does Wall Street (i.e., the investment community generally) view the trucking industry, following several years of experience with the freedoms granted under the 1980 law?

My testimony today does not reflect the results of an comprehensive analysis of the industry. However, the points raised and illustrative data employed arise from nearly daily exposure to the activities of major for-hire carriers in the industry. I trust that, while the vantage point of an investment analyst specializing in transportation is not without its limitations—especially the necessary focus on the relatively large publicly traded firms—it represents at least an informed opinion.

DEREGULATION SPAWNS A MERITOCRACY IN THE TRUCKING INDUSTRY

In my view (and I believe it is quite representative of the investment community generally), how any trucking company has fared thus far under the new more freely competitive environment produced by the Motor Carrier Act of 1980 has been predominately a function of two factors:

How efficient (or cost-effective, if you will) they have been versus their competitors in producing trucking services; and,

How successful they have been in meeting the specific service requirements of shippers at competitive rates.

In short, the Motor Carrier Act of 1980 has spawned a meritocracy within the trucking industry, a regime which as allowed efficient providers of high quality trucking services to reap the rewards of higher revenues and increased market share. For example, some of the more successful carriers, whether large such as Consolidated Freightways, Yellow Freight or Roadway Express or noticeably smaller like Overnite Transportation, Carolina Freight, Viking or Builders Transport have shown gains in revenues and operating income well in excess of the industry averages (see Charts 1 through 6). The absolute gains of these and other successful carriers, particularly in the past several years, can be attributed in large measure to the sharp recovery in the economy, but the relative gains (i.e., versus their counterparts throughout the industry) of these companies primarily reflect their success: in controlling costs, taking full advantage of the removal of artificial restrictions on carrying only specified commodities to only specified locations, often via only specified routes, and providing services that shippers obviously find attractive.

This last point should not be passed over lightly. These companies, and others that are succeeding under this freer and more competitive environment, are dong so not because regulators in Washington are suppressing eager competitors for their business, but because shippers, even with many alternatives at hand, still choose to offer them the business. To paraphrase one of my competitor's television ads—they are gaining market share the old fashion way, they're earning it.

EVEN CHANGE FOR THE BETTER LEAVES SOME BEHIND: WHAT SHOULD WE MAKE OF IT?

As the Motor Carrier Act of 1980 has allowed new firms to enter the industry and existing firms to expand, competition has grown more intense for the shipper's freight and some carriers—over 350—have filed to withstand the rigors of the more competitive climate.

But what lessons should be draw from their failure? The issue is not whether there have been bankruptcies—there certainly have been. Nor is there any question that we should sympathize with those employees, owners and stockholders who lost jobs and money in the process and now must turn their energies elsewhere for employment and return on their savings: all but the most callous would. The real issue is whether the trucking industry is offering a complement of services more closely tailored to the shippers' needs and doing so in a more efficient manner. On this score the Motor Carrier Act of 1980 has been a big success. My sense is that many shippers are delighted with the degree to which individual carriers—large and small—are vying for the right to carry their freight, both through competitive rates and good service. While the credit for these efforts belongs to the trucking companies and their employees, the environment which encouraged, even necessitated, this close attention to the customer's requirements was created by the Motor Carrier Act of 1980.

Some critics of the Act and deregulation in general would argue that the failure of some companies to survive a more competitive industry climate is proof that the old days of regulation should be reconstituted. Individuals, labor unions and companies who benefited in the past from the protective umbrella of government regulation and argued that business freedom causes them unneeded grief sound an awful lot like the rooster who thought the sun rose each morning only to hear him crow. The trucking industry does not exist to guarantee anyone's fortune; it exists to meet a demand for transportation by its customers and those who do it efficiently and well may indeed find their fortune in it.

DEREGULATION HAS PROMPTED INNOVATION AND MODERNIZATION

The more competitive climate and new business freedoms arising from the reforms enacted in the Motor Carrier Act of 1980 has encouraged and in some cases necessitated both innovations and modernizations. Some illustrative examples include:

The substantial increase in the attention given to both marketing and pricing of services within the trucking industry. Since 1980 literally dozens of pricing plans have been introduced—zip code based pricing schedules, multiple shipment and volume-based pricing schemes and the vastly expanded use of contracts—all designed to enhance profitability, building market share, create dependable service and rate commitments, simplify rates, or match rates more closely with actual costs.

Rail/truck service links, such as those instituted by Carolina Freight and Viking Freight and many others, have increased dramtically over the past three years, giving shippers a service not often available to them in the past.

Compact modular freight terminals are being employed on an experimental basis by Consolidated Freightways to improve their service in small communities with freight flows that are too small at present to justify a large fixed terminal.

DEREGULATION IS CREATING A NEW REALISM BETWEEN LABOR AND MANAGEMENT

One of the most prominent effects of the Motor Carrier Act of 1980 has been the gradual emergency of a new sense of economic realism in the dealings between labor and management. During the heady days of regulation both management and labor could count on the government's help in passing labor settlements, however large, along to shippers and consumers through the restriction of new entry and acquiescence in substantial collectively-set rate increases. The Act is helping to change all that. A flood of new, eager non-union entrants is seeking to compete for the right to serve shippers. In addition, the lifting of restrictions constraining the expansion of efficient, unionized, trucking companies has allowed these firms to bring their cost or service advantage to a broader market. Now both the managements of unionized companies and the Teamsters have to confront a new reality; namely, that wage levels must reflect the prospects for the industry without artificial help from the government.

Already we have seen a terrific deceleration in the growth of union wages in the industry, more so than would be explained by the drop in inflation over the past two years. There are also signs of a substnatially greater willingness to consider work rule changes to enhance productivity, a necessary step if the union is to defend its roughly $19.00 to $22.00 per hour compensation, a figure that is substantially higher than the average hourly wasge in U.S. industry. No one likes the though of having to restrain wages to stay in reasonable relation to those paid in other industries and to the growing non-union competition, but the altenative is substantial and probably permanent unemployement among union members—a far more distressing outcome.

DISCOUNTING: A SIGN OF INSTABILITY OR HEALTHY COMPETITION?

Probably the most topical subject within the trucking industry is the frequency and depth of the discounts carriers are currently offering shippers on less-than-truckload shipments. Some would suggest that the trend toward discounting spells instability and ultimately disaster for the entire trucking industry. For companies unprepared to operate in a competitive environment it may indeed prove disastrous. But, there is nothing pathological at work here nor anything that will destroy the ability of the industry to provide service. The discounts seem to reflect some combination of the following factors:

Rate Bureau or "list" rates that are artificially inflated by the continued blessing given to collective ratemaking via the government's provision of partial anti-trust immunity.

A general decline in inflation and the subsequent ebbing of pricing power throughout U.S. industry.

Decisions at the company level to defend or maximize market share.

The growing competitive pressure from non-union carriers, a slowly reviving railroad industry and the growing number of rail/truck combinations.

Until very recently at least, a substantial amount of excess capacity within the trucking industry.

If, indeed, these are the factors underlying the discounting observed within the industry, it suggests nothing unusual is happening at all, merely the normal workings of a more freely competitive industry.

That rates have been more volatile following passage of the Motor Carrier Act of 1980 is a fact; moreover, they will probably continue to be so. But rate discounting is hardly likely to continue to the extent that it ultimately proves the ruination of even the most efficient truckers. That is a prime example of the fallacy of extrapolation. Remember, not too long ago oil prices were through at one time virtually destined to be at $40 or $50 a barrel about now. Obivously, this has not yet come to pass. Closer to home, discounting in air fares was throught by some to threaten the airline industry's survial. Nevertheless, despite well publicized bankruptcies, air travel is running at high levels. Moreover, efficienct newcomers like People Express and Southwest Air, along with efficient incumbents like American Airlines and Delta, which have taken the steps to adapt to a more competitive industry (with pricing more volatitle than anything we have seen in the trucking industry to date), have learned to operate profitably. Even closer to home is the example of truckload rates, which according to the reports I am receiving from the companies I deal with in the industry, are holding up nicely and even increasing a bit, even while less-than-truckload rates are being heavily discounted. The fact is that the Motor Carrier Act of 1980 has allowed supply and demand to work in the trucking industry and that is a healthy process.

WALL STREET'S VIEW OF THE TRUCKERS

This brings me to the second question I was invited here today to answer; namely, "How does Wall Street (or the investment community) generally view the truckers." While I have no intention of hedging my answer, a few caveats are in order whenever an individual attempts to sum up the disparate views of the thousands of professionals who make up the investment community.

First, as with any community of free-thinkers one can find a wide variety of opinions represented, even when a sweeping consensus is present.

Second, I deal primarily with investors who own stock in a number of companies and not in the "trucking industry" per se.

Third, like me they spend the bulk of their time investigating the prospects of relatively few publicly traded companies and considerably less time on the status of owner-operators, private fleets or the thousands of small for-hire truckers—all important segments of the trucking industry.

That said, let us review the evidence.

THE PE TEST SHOWS CONSIDERABLE FAITH IN TRUCKING

Investors' assessment of the prospects for a company (and though aggregation of companies for an industry) can be inferred in part from the price they are willing to pay for that company's current earnings versus the price they are willing to pay for the same earnings elsewhere in the stock market (the stock price to earnings ratio or PE). A sample of 15 large and medium sized publicly traded trucking companies shows that investors are paying (via the stock prices) roughly 90 percent as much for each dollar of trucking earnings as they are paying for a dollar earned by the average publicly traded non-trucking company (see Table 1). This hardly suggests that investors believe that the industry along with its major participants are headed for ruination because of the effects of the Motor Carrier Act or any other reason.

Critics of this reasoning would argue that I have included only relatively healthy carriers in this illustration and that were I to fold in the experience of the companies that have filed for bankruptcy the results might suggest that investors are indeed signaling their lack of faith in the future of the industry. While this criticism is only partly valid, my response is that in a very practical sense (as well as a theoretical one) the carriers that are surviving are the industry. If investors thought the industry was a fundamentally unhealthy place to do business whether because of the Motor Carrier Act of 1980 or some other reason, they would not likely risk their money and the funds entrusted to them in any trucking company, even one with managerial and financial assets that would probably yield considerable success in a more promising line of business. The evidence suggests, however, that many investors are willing to pay at least as much (and some cases more) for the earnings of major trucking companies as for the earnings of the average publicly traded company.

Moreover, there are some cases—Consolidated Freightways and Roadway Services are two examples—where the price investors have been willing to pay for the earnings of these companies has not appeared to vary appreciably before and after passage of the Motor Carrier Act in 1980 (see Charts 7 and 8).

THE QUALITATIVE APPROACH

So much for the illustrative quantitative evidence. Qualitatively I would note that my virtually daily discussions with investors concerning trends in the trucking industry tend to raise the following themes in roughly this order of frequency:

1. The industry is consolidating. Efficient companies with good business niches, management and financing are benefiting at the expense of those, which for one reason or another, cannot hold onto the shippers freight.
2. The customer's influence has grown. In the competition between trucking companies for the right to command a share of the industry's tonnage, revenues and profits, thc shipper—that is to say the customer—appears to have a vastly greater "say" since passage of the Motor Carrier Act.
3. The industry is becoming more volatile. A more competitive industry exhibits more volatile pricing, earnings and stock prices though no more so that other notoriously volatile industries such as airlines, airfreight, autos, gold, semi-conductors, etc.
4. The general decline in for-hire trucking rates is giving some parts of the industry new life by making them competitive once again with some private fleets.
5. The union/non-union split in the industry is a constant source of competitive jostling.
6. Innovation has picked up within the industry in the form of new ventures allied with traditional trucking operations like piggyback forwarding, import/export services, rail/truck combinations, varied marketing and pricing strategies, new labor arrangements, etc.

A DIFFERENT INDUSTRY BUT A HEALTHIER, MORE RESPONSIVE ONE

For what it is worth to you my overall sense from the perspective of an industry analyst is that the Motor Carrier Act of 1980 has certainly changed the trucking industry. It has fostered a more competitive climate in which the efficient providers of good service have grown at the expense of those which either failed to become efficient enough or provide service that attracted the shippers' business. Despite these changes, the freight has not failed to move since passage of the Act nor does it appear likely that the industry will prove incapable of meeting the transportation demands of shippers in the future.

Indeed carriers such as Yellow Freight, Consolidated Freightways, Overnite Transportation and Roadway Services have greatly expanded their terminal networks since 1980 while others such as Carolina Freight, Ryder System, Leaseway and IU International have greatly expanded their capacity through growth and acquisitions. There is no greater vote of confidence in the industry's future than the investment of hard-earned dollars into trucking by knowledgeable industry participants such as these.

The success of the reforms introduced by the 1980 legislation indeed suggest the desirability of completing the process and bringing the trucking industry back entirely into the mainstream of American business by removing the last elements of economic regulation—specifically the remaining anti-trust immunity granted collective ratemaking—leaving safety and insurance requirements to ensure society's interest in safe and responsible operation in areas where outsiders could be affected is served.

I thank you once again for the opportunity to appear here today. I would be happy to answer any questions you may have.

ATTACHMENTS

CHARTS 1 THROUGH 6

The following charts offer a comparison of the trends since 1980 in operating revenues (Charts 1 and 2), operating expenses (Charts 3 and 4) and operating income (Charts 5 and 6) for a large sample (158) of general freight carriers compiled quarterly by the Economic Research Committee of the Regular Common Carrier Conference and a small sample (7) of particularly successful carriers. The seven carriers—

Consolidated Freightways, Roadway Services, Yellow Freight, Overnite Transportation, Carolina Freight, Viking Freight and Builders Transport—was highly subjective and leaves out many carriers that have been exceptionally successful since passage of the Motor Carrier Act. The point of these comparisons is to illustrate the success some carriers have achieved even during a period when the additional competition brought on by the motor carrier reforms and the stress of a major economic recession put substantial pressure on the revenues and profits of the industry.

The data for 1984, while obviously not complete, reflects PaineWebber's estimates of the results for the remainder of the year. The first chart in each pair (Charts 1, 3 and 5) show the data for each group, with the 1980 level indexed to 100. The second in each pair (Charts 2, 4 and 6) show the data in actual dollars.

CHARTS 7 AND 8

These two charts are taken from PaineWebber's second quarter 1984 edition entitled "Comparative Values Quarterly Charts" by Edward M. Kerschner and Charles J. Pradilla. They are intended to illustrate the point that the price to earnings ratio (PE) investors have paid for the common stock of these two major for-hire truckers did not plummet with the enactment of the Motor Carrier Act in 1980. In fact, in the case of Consolidated Freightways, it rose.

Chart 1

REVENUE TRENDS SINCE 1980:
INDUSTRY VS LEADING TRUCKERS

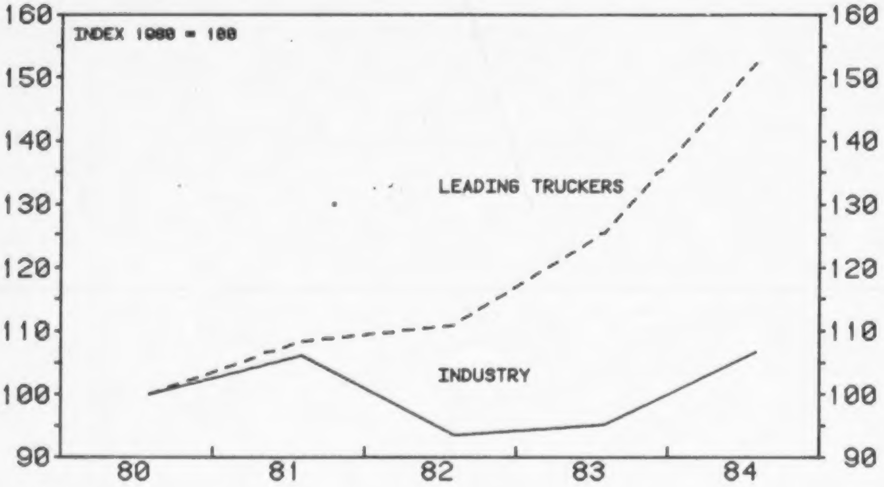


Chart 2

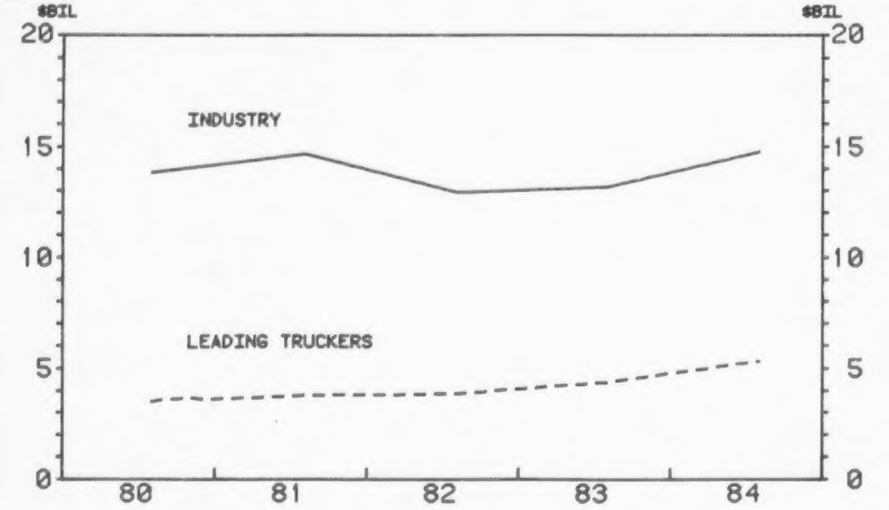


Chart 3

COST TRENDS SINCE 1980:
INDUSTRY VS LEADING TRUCKERS

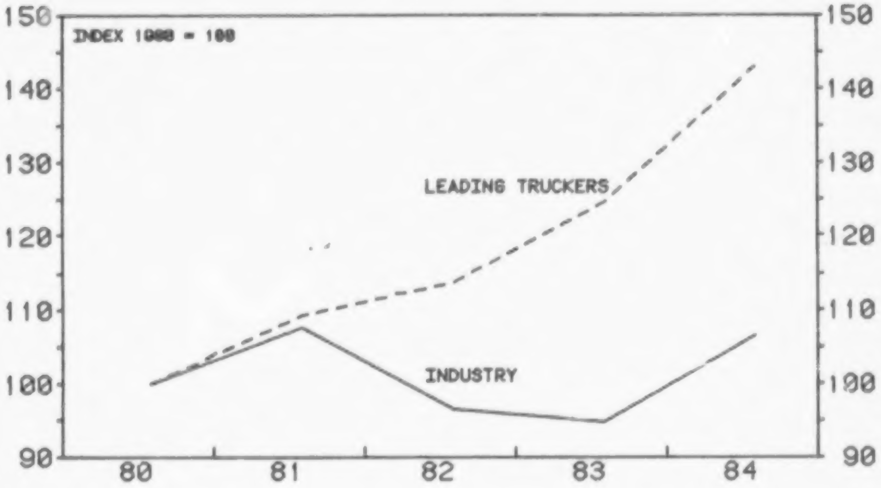


Chart 4

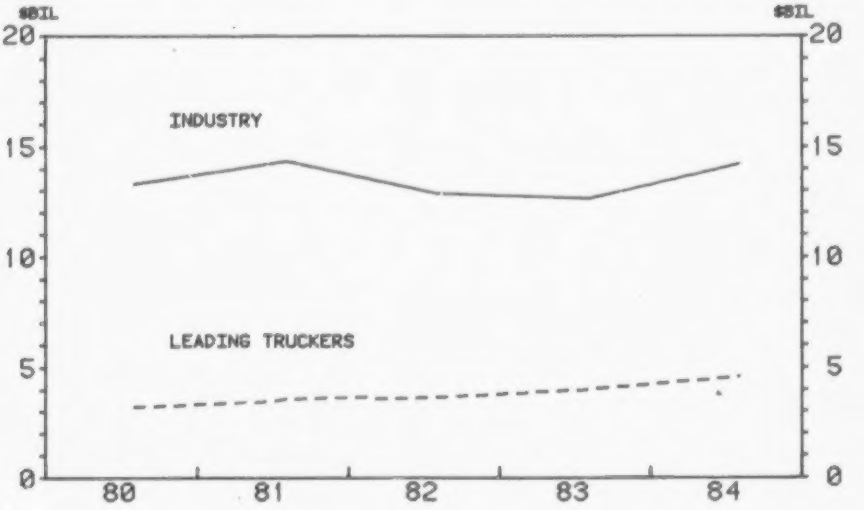


Chart 5

OPERATING INCOME TRENDS SINCE 1980:
INDUSTRY VS LEADING TRUCKERS

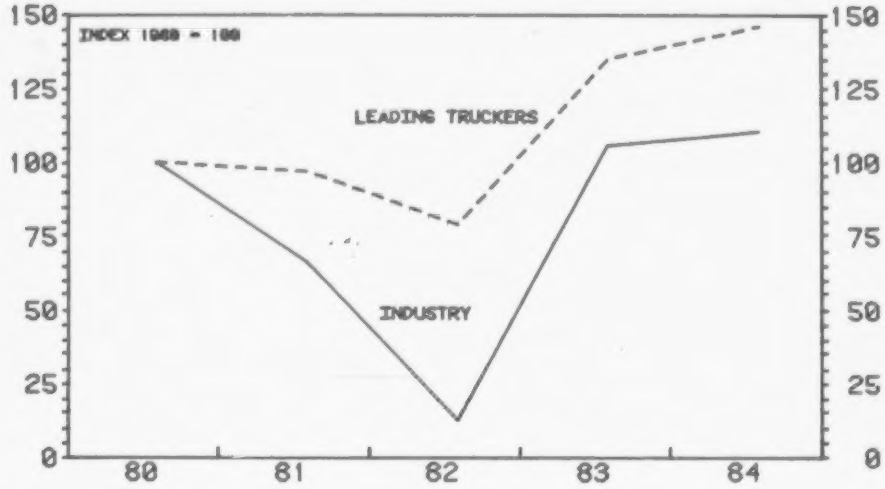
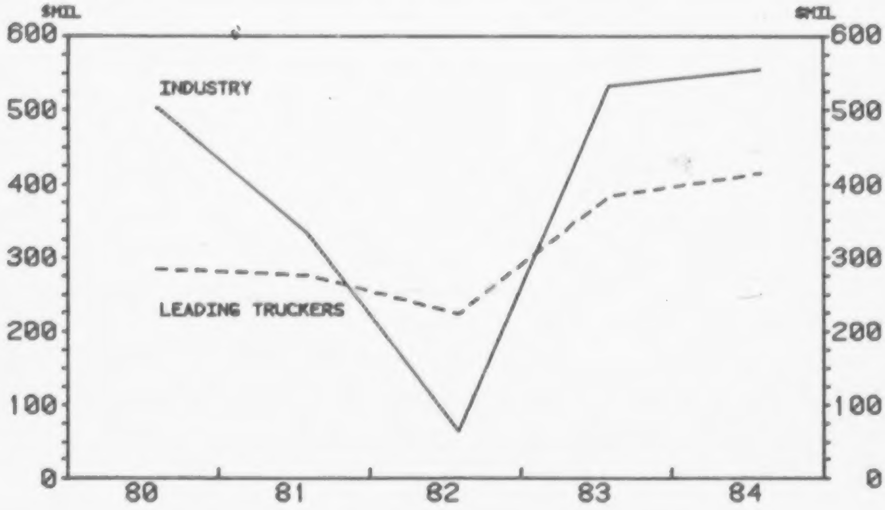


Chart 6



Relative P/E Trend 1972-1984

Chart 7

Data Relative to S&P 400

Consolidated Freightways

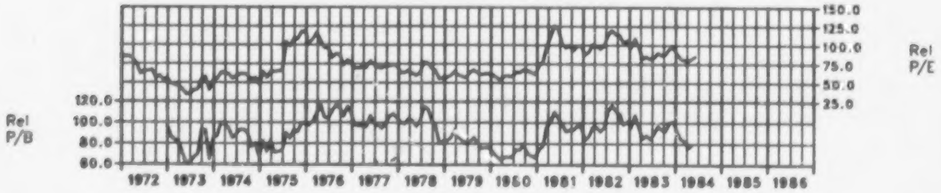
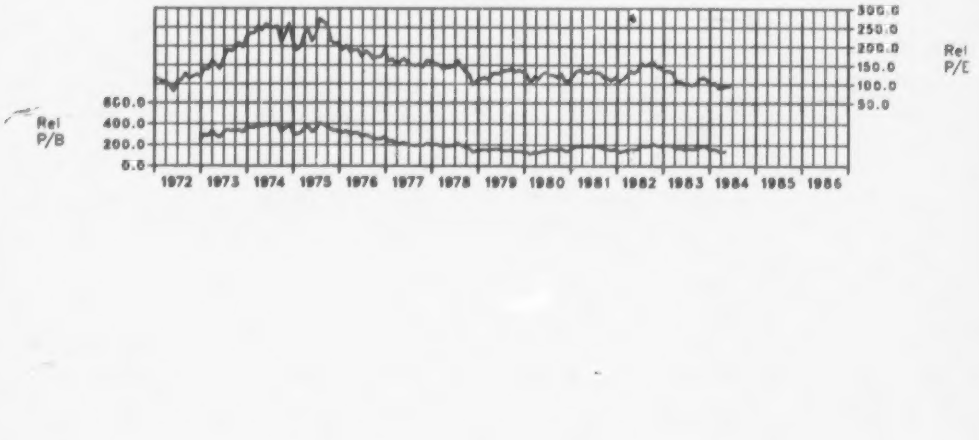


Chart 8

Data Relative to S&P 400

Roadway Services



The Chairman. Next, we will take a panel of Mr. Tim Lee, Superior Transportation Systems; Mr. Milton Ashford, representing Leaseway; Mr. John Sarefield, the Chairman of the Law Committee of the Private Truck Council; and Mr. Edward Cody, the Second Vice President, the Private Carrier Conference.

I am happy to have you with us. Tim, doubly delighted to see you. Tim Lee used to be a young legislative—in fact, you are still young—he used to be a legislative assistant in my office years ago, and he and I shared many, many happy moments together. Why don't you start out, Tim?

STATEMENTS OF TIM H. LEE, VICE PRESIDENT, SUPERIOR TRANSPORTATION SYSTEMS, INC.; MILTON ASHFORD, DIRECTOR, FEDERAL AND STATE GOVERNMENT RELATIONS, LEASEWAY TRANSPORTATION CORP.; JOHN G. SAREFIELD, CHAIRMAN, LAW COMMITTEE, PRIVATE TRUCK COUNCIL OF AMERICA, INC.; ACCOMPANIED BY RICHARD HENDERSON, EXECUTIVE VICE PRESIDENT, AND RICHARD SWEITZER, LEGISLATIVE COUNCIL; AND EDWARD CODY, SECOND VICE PRESIDENT, PRIVATE CARRIER CONFERENCE, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. Lee. Thank you, Mr. Chairman. I am Tim Lee, vice president of Superior Transportation Systems, Inc. of Wilsonville, OR, one of the more aggressive transportation brokerage companies in the industry, and I am honored to be invited to the committee to give my views on this landmark legislation.

The Chairman. Talk real loud into that microphone so they can hear you in back, Tim.

Mr. Lee. We believe Congress acted wisely in 1980 to turn back from the road of excessive Government regulation and restore free competition with passage of the Motor Carrier Act. The act made it possible for a businessman with a few good ideas to offer services that customers need and make sense out of truck routing and pricing schedules that were once inflexible, to put idle equipment to productive use, to serve smaller communities in better, more imaginative ways, and to save money for both shippers and consumers in the process.

We have tried a number of these ideas in our home State of Oregon, Mr. Chairman, and they are working successfully today.

My own business, for example, started 4 years ago, literally from scratch, with less than three-quarters of a million dollars in 1980, STS will gross over $20 million for fiscal year 1984. In just the last 3 years, STS will have paid over $150,000 in State and Federal income tax and will have been responsible for the payment of over $300,000 in highway and fuel use tax in our home State of Oregon alone.

In addition to our regular routing of TOFC, rail, and LTL traffic, STS currently routes over 1,500 truckloads of freight on a monthly basis.

Under Federal deregulation, as a brokerage, we have been able to develop new systems to serve smaller communities by promoting shipment consolidation and enabling truckers to make multiple stops to communities along their routes without bringing their shipments to a central distribution point for redistribution. This has enabled us to provide more expeditious, more reliable service service at a lower cost to smaller communities.

Unfortunately, Mr. Chairman, this is not necessarily the case when the two points being served are within the borders of one State.

Indeed, the Motor Carrier Reform Act of 1980 was sorely needed prior to its enactment. Unfortunately, the Federal initiatve, in my opinion, must be made 50 times as strong by serving as a model for each of the 50 States and their hodge-podge of rules, pricing, and routing requirements that tend to disserve the public interest.

One specific area needing attention is the area of reciprocity or the means by which States recognize the vehicle registration and operating authority of the carrier granted by other States. For instance, in my home State of Oregon, an owner-operator or small fleet operator, or a large fleet operator for that matter, can enjoy reciprocity with eight other States in the far West, but not with the States of California or Washington, our closest neighbors on the Pacific Coast.

In short, Mr. Chairman, we should understand that the current myriad of varying "intrastate" regulations serve to promote nonregulatory compliance, resulting in many cases nonpayment of license and permit fees and nonpayment of fuel and highway use tax.

In addressing the need for uniform reciprocity, we believe the Federal Government should propose and set standards for uniform State vehicle registration for State implementation. Uniform logical standards should not, however, be overseen by a new Federal bureaucracy, but instead, by existing State authorities.

To gain compliance with the States, the Federal Government should consider conditioning the appropriation of highway funds and grants to adoption of uniform standards.

Second, Congress should direct the DOT, the ICC, and the NARUC together to assess the unreasonable burdens or chilling effect the State regulatory process, in sum, make on interstate commerce. The parties should recommend to Congress what steps can be taken by both the Federal Government and State governments to eliminate as much of the current regulatory underbrush as possible.

In summary, Mr. Chairman, not only does the act work as Congress had intended it, but it embodies the free market competitive philosophy that benefits both business and consumers alike. STS is living proof that deregulation is alive and working well. I hope this Federal example will catch on throughout the United States and make it possible for the independent broker to continue to provide new and innovative services and reduce shipping costs to all customers, no matter where they may reside.

[The statement follows:]

STATEMENT OF TIMOTHY H. LEE, VICE PRESIDENT, SUPERIOR TRANSPORTATION SYSTEMS, INC., WILSONVILLE, OR

Thank you, Mr. Chairman and members of the Senate Commerce Committee, I am Tim Lee, Vice-President of Superior Transportation Systems, Inc. of Wilsonville, Oregon, one of the nation's leading transportation brokerage companies, specializing in services and innovations that benefit trucking as an industry as well as the shippers and consumers who rely on our nation's largest transportation segment.

Today, just 4½ years after enactment of the Motor Carrier Act of 1980, I am deeply honored to be invited by the Committee to give my views on this landmark legislation. Our own firm, STS, was founded by my partner, Bill Kirkpatrick and myself three short months after passage of the Act. We believe Congress acted wisely then to turn back from the road of excessive government regulation and marketplace barriers to restore free competition in the marketplace and promote cost efficiency with passage of the Motor Carrier Act. As a matter of fact, the application filed by STS' affiliated motor carrier, Shippers Freight Services, Inc., in 1980 for contract carriage authority to serve STS (ICC MC 152609-Sub 5) became the landmark decision that more than any other single act helped confirm what Congress intended was the definition of a shipper and what was the proper role of a broker. This decision later served as the primary basis for the Dixie-Midwest Decision in 1982. From this historic beginning, STS launched its own brokerage services to match the needs of both carriers and shippers.

Our business started literally from scratch in 1980 with three employees and less than $1 million in annual sales. This year we project to gross over $20 million with four offices in the western states and more than 45 employees servicing over 10,000 origin and destination points annually. In the past three years, STS has also paid over $150,000 in Federal and State corporate taxes and been responsible for over $300,000 in Oregon fuel and highway use taxes. The key to this growth, and to the benefits enjoyed by shippers, carriers and consumers, was born here on Capitol Hill and made it possible for a businessman with a few good ideas to offer services that customers need, and to make sense out of truck routing and pricing schedules that were inflexible, to put idle equipment to productive use, to serve smaller communities in better, more imaginative ways, and to save money for both shippers and consumers in the process. We tried it in Oregon, Mr. Chairman, and it works.

The Motor Carrier Reform Act of 1980 was clearly the engine of improvement that was sorely needed to change the way we think about trucking and about transportation in general. In interstate commerce, the Act made possible the efficiencies that benefit business and consumers alike. Unfortunately, however, the federal initiative as far as it goes, must be made 50 times as strong, by serving as the model for each of the 50 States and their hodge-podge of rules, pricing and routing requirements that tend to disserve the public interest. Interstate deregulation has made possible a host of specializations and economies that brokers are uniquely qualified to provide customers. Unfortunately, in intrastate commerce, servicing two points that happen merely to be within the State's boundaries is another matter entirely. The result is often less service, at a higher cost.

I recognize the committee's jurisdiction, as well as that of Congress, falls short of the States, but we strongly feel Congress has a role in working with state officials to demonstrate, persuade and provide incentives to the States to, at the very least, take advantage of federal experience in fashioning improvements within State regulation to accomplish the same goals. Without harmonization and a healthy dose of common sense, the disparity between federal deregulation and State regulation will continue to be in abyss that will confound truckers, shippers, brokers and consumers alike. In a latter part of my testimony, I will propose two specific suggestions for Congress to consider in responding to the States.

Let me now describe for you, briefly, the progress STS has achieved under deregulation and how the changing relationship between a transportation broker and the Interstate Commerce Commission make it possible for us to specialize in a host of transportation services that have passed on significant advantages to our shippers and carriers and ultimately to the consumer.

With passage of the MCRA, a host of changes in the operating authority for contract carriers made it possible for brokers to be freed from restrictions that no longer can be justified. Most important of these were eliminating the rule of eight; making "fitness" the sole requirement for the granting of operating authority; removing limits on operating authority by commodity or geographic scope; easing the eligibility requirements for brokers licensees; and perhaps most critically, defining more appropriately and more broadly the criteria for establishing whom a "supporting shipper" can be. The law, and the ICC, now make it possible for a brokerage to be freed of restrictions against full service that tend to reduce distribution costs and to permit trucking equipment to be operated in the most efficient and cost saving means possible.

Today, STS serves 48 states from its Oregon base. Although we do not own or operate a single truck ourselves, in addition to our regular rail, TOFC and LTL traffic, our firm routinely handles over 1,500 truckloads of freight per month. We are, in every sense of the word, a "transportation" company. We went into this business because we saw resources in the marketplace that were not being used, or used efficiently. We share the philosophy of the Motor Carrier Reform Act, that excess capacity, unreasonable barriers to competition, and inflexible rules do not benefit consumers or the economy. The flexibility and liberalization contained in the MCRA made it possible for a brokerage company such as ours to take advantage of that philosophy and to be a true innovator.

From the standpoint of STS, the Motor Carrier Reform Act was made even more effective in combination with the Staggers Act. As a brokerage, we found deregulation of trucking and rail freight have enabled us to further diversify services on behalf of shippers and to route shipments more cost-effectively multi-modal. One of our newest operating teams makes it possible to exploit rail box car capacity—by consolidating and cross-docking truckloads into rail box cars for long distances, particularly in the West. At destination, the individual box car loads are then again cross docked to truck and moved down the highway to its ultimate consignees. Brokers are able, therefore, without prejudice to one mode of transportation, to choose the kind or combinations of carriers that save time and money in the end. Deregulation via the MCRA, without question, made this possible.

During the Summer Olympic Games in Los Angeles this year, you may be interested to learn, one of our major shippers requested our traffic management advice on behalf of the Los Angeles Olympic Organizing Committee to help ensure truck and rail delivery congestion in the area did not interfere with the spectators enjoyment of the competition. That is just one of the examples of the way deregulation has spawned transportation specialties that address unusual needs in the marketplace.

When I was invited to testify for the committee, I wrote a short letter and questionnaire to our major customers and shippers, inside and outside Oregon, to ask them about their own experiences since implementation of the MCRA. According to the consensus among our customers, implementation of the Motor Carrier Reform Act has resulted in:

1. Greater competition in the marketplace, especially in the area of long hauls that have resulted in increased market share,
2. Greater flexibility and service alternatives,
3. Services that are better tailored to specific needs of customers,
4. Increased availability of motor carrier equipment, and,
5. A substantial increase in the overall use of motor carriers.

One of our major customers, the James River Corporation of Richmond, Virginia, a member of the Fortune 500, indicated that "passage of the MCRA provided opportunities to expand markets substantially to previously unattainable areas and customers. The MCRA has contributed to our capability of maintaining a competitive edge in a very competitive marketplace".

As an Oregon businessman and someone knowledgeable about the transportation systems in the western United States, I remain fully committed to the philosophy and the direction contained in the Motor Carrier Reform Act. I particularly want to commend the leadership of Senator Packwood, and the Members of the Committee, both Republican and Democrat, who pioneered this progressive legislation and brought it to enactment. It has given important lifeblood to our own business, and has served the public well by spurring innovations and efficiencies in the marketplace that were otherwise unattainable.

Earlier in my testimony, I made the distinction between the benefits made possible by interstate deregulation under the Act, in contrast to the hodge-podge and complexity of intrastate rules that continue to saddle truckers and shippers alike. Under Federal deregulation, for instance, as a brokerage we have been able to develop systems to serve smaller communities by promoting shipment consolidation, and enabling truckers to make multiple drops to communties along their routes without bringing their shipments to a central distribution site for redistribution. All of this has enabled us to provide more expeditious, more reliable service at a lower cost to smaller communities. Unfortunately, this is just not the case when the two points served are within the borders of one state as we have discoverd in Oregon.

For example, one of our major customers maintains and operates a paper mill in Halsey, Oregon, a community of fewer than 500 people. The mill requires regular inbound shipments of pulp and other materials from both St. Helens, Oregon (a distance of 115 miles) and from Longview, Washington (a distance of 135 miles). However, under state rules we must charge a minimum of $287.50 per truckload from St. Helens and only $195 per identical truckload from Longview, which is 20 miles further but just happens to be out-of-state. STS routes empty equipment along this same corridor 10 to 15 times daily, yet intra-state regulations require us to charge nearly twice what we could operate for profitably.

While I again recognize that Congress and the Federal Government have little role over state regulations, we believe the problem merits serious attention by all who are committed to a sensible, cost-efficient national transportation system. We urge the committee to once again use its leadership to help resolve these issues among the states.

From the vantage point of businessmen, we have worked hard to communicate our concerns with state regulators and on behalf of our shippers and truckers, to try to reconcile the regulatory complexities and obstacles as they occur. And, in good conscience, in Oregon at least, we do find they are beginning to listen. We quickly realized, however, that if we face problems of compliance and complexities in intrastate commerce, we could only imagine the headaches, frustrations and costs borne by the owner-operator and small fleet owner. In our experience, it was precisely the state regulatory fog that promoted non-compliance by owner-operators with state requirements and the likely overpayment of highway fuel and use taxes in a few cases, and, more importantly, underpayments in many more cases.

It was precisely this burden on owners/operators and small businessmen that led us to create a subsidiary of STS called Transportation Carrier Services or TCS. TCS exists solely to serve as a resource, guide and facilitator to small operators to comply with state regulations, to meet their growing tax burdens, and to keep up with the increasing paperwork.

One specific area we believe most needing attention is in the area of reciprocity, or proration, the means by which States recognize the vehicle registration of a carrier granted by other States. Without such reciprocity or proration, unfortunately, the individual owner/operator is faced with the complex, slow and often costly burden of applying for registration in many States. For instance, in my own state of Oregon, an owner/operator can enjoy reciprocity or proration with six other states in the far west, but not with the states of California, Washington, Nevada or New Mexico. This simply means that although a trucker can register his vehicles in Oregon that is good in a number of other markets, he must also obtain registration and licensing from these other four states. With all the myriad complications, delays and costs that entails, a system of uniform reciprocity and proration in these cases would, no doubt, streamline the process for many owner/operators and pave the way for a national, uniform system of operating credentials that every state could honor, well within the original purose of the Interstate Commerce clause of the Constitution.

Before I close my testimony, I would like to leave with the Committee two specific suggestions for ways Congress might use its leadership in working with the States to resolve these issues.

First, particularly to address the need for uncomplicating state requirements, the Federal Government should propose and set standards for uniform state vehicle registration for state implementation. Uniform, logical standards should not, however, be overseen by a new Federal bureaucracy, but instead by existing state authorities. To gain compliance by the States, the Federal Government should consider conditioning the appropriation of highway funds and grants to adoption.

Second, to begin to understand the diminsion of the problem and to find national solutions, Congress should use its leadership to direct the DOT, the ICC and the NARUC together to assess what unreasonable burdens or chilling effect the state regulatory processes—in sum—make on interstate commerce. In addition to a realistic assessment, the parties should recommend to Congress what steps can be taken by both the Federal Government and State governments to eliminate as much of the regulatory underbrush as possible.

In conclusion, I again appreciate very much the opportunity to share with you our experience and observations on the Motor Carrier Reform Act of 1980. Not only does the Act work, as Congress intended, but it embodies the free market competitive philosophy that benefits both business and consumers alike. In fact, STS is living proof that deregulation is alive and working well. Mr. Chairman, I only hope the federal example will catch on throughout the United States and make it possible for the independent broker to continue to provide new services and reduce shipping costs to all customers, no matter where they happen to live.

Thank you very much for your interest and attention. I will be more than happy to answer any questions you have at this time.

The CHAIRMAN. Thank you.
Mr. Ashford.

Mr. Ashford. Good morning, Mr. Chairman, Mr. Pressler. I am sitting in for Charles Marcoux this morning, who is the president of Leaseway Transportation. He is ill and could not make it. I am director of Federal and State Government relations for Leaseway Transportation.

As a quick background for discussion on the effects of the motor carrier deregulation, I would just like to briefly describe the nature and structure of our operations at Leaseway.

It is a holding company with more than 100 subsidiaries operating throughout the United States, Canada, and Puerto Rico, at about $1.3 billion in annual sales. Approximately 75 percent of our operations, representing almost $1 billion revenues are strictly attributable to trucking operations. The majority of our operations are unionized. With well over 10,000 union employees, our subsidiaries collectively constitute one of the Nation's largest employers of Teamster Union members.

I would like to address two related questions today. First, what has been the impact of truck deregulation on the Motor Carrier Act of 1980; and second, what further actions need to be taken in the area of motor carrier deregulation.

First, it is the opinion of Leaseway Transportation that the Carrier Act of 1980 is, without question, delivering the economic benefits to the U.S. economy that were promised. Transportation deregulation, combined with improved information management have accelerated inventory velocities, to unprecedented performances.

Additional statistics show that annual expenditures for logistics in the United States have been reduced by $30 billion since 1981. Logistics costs have declined 14.7 percent of equivalent GNP in 1981, to 12.1 percent in 1983.

It is clear that a distribution productivity, powered by transportation deregulation and new information management advances, has made a remarkable contribution to our current disinflation.

The transportation portion of these savings has been achieved through a number of related ways. One way has been the shifting of market share to more efficient operators and away from less efficient. Under regulation, the more efficient operators were constrained from expanding, and less efficient were protected by rate regulations and entry restrictions. Deregulation simply hastened their demise.

Regulation was the life support system that slowly undermined the long-term viability of those businesses.

Another source of savings has been the ability of carriers to improve their loaded-mile efficiency, thereby reducing wasteful empty mileage. Allowing private carriers, for example, to haul intercorporately and to form transportation subsidiaries enabled them to significantly reduce their empty backhauls.

There is also the decline in truck labor costs. The regulatory system permitted carriers to pass through their labor cost increases to shippers without difficulty. That ability limited the carriers' incentive to remain steadfast against organized labor's demands. The result was that wages and benefits for truckdrivers and dock workers was well above levels achieved by workers in many other industries. Deregulation worked to correct this economic imbalance. It forced all carriers, but particularly unionized carriers, to operate more efficiently or face failure. That, we believe, is as it should be in a free enterprise economy.

This transition has clearly benefited the economy and it has benefited those workers hired by the carriers who have expanded their operations since the Motor Carrier Act. Looking at the trucking industry alone—that is, not including private carrier or other services provided by nontrucking companies—employment in 1983 was 4.7 percent below the 1980 level. This decline in employment in traditional trucking companies indicates that manufacturers, retailers, and distributors are utilizing alternate methods of highway transportation.

The CHAIRMAN. Let me ask you this. I had a chance to read the statement last night, and it will be in the record in total, but you are not going to get within your time period if you read this entire statement, so I would appreciate it if you could abbreviate it.

Mr. ASHFORD. Yes; I have about four more paragraphs, Mr. Chairman.

The CHAIRMAN. OK. Right.

Mr. ASHFORD. The last source of savings achieved under deregulation has been the reduced profitability of the trucking industry. In contrast, the experience of the trucking industry under the Motor Carrier Act, with the experience of the railroad industry's Motor Carrier Act companion, the Staggers Act. The Carrier Act was designed to force the motor carriage sector to become more competitive and even to give back some of its protected profits.

The Staggers Act, on the other hand, was intended to shore up returns in the railroad industry by allowing rail carriers to raise their rates easily and more quickly. These are two laws which have done what they were intended to do.

We may have overshot the mark in the area of motor carrier givebacks and the area of railroad returns, but I will not belabor that point.

Mr. Chairman, the burdens continue to multiply and no solution that strikes the core of the problem has emerged. We recognize that making major changes in this area will not be easy. The whole concept of financing our highways raises questions about State and Federal roles. Nevertheless, we urge you to consider the following recommendation:

The time has come for Congress to make a serious high-level review of the way Federal, State, and local governments regulate and tax motor carrier operations in interstate commerce. Not only does this regulation and tax structure impose an unreasonable burden on carriers, but we believe you will find it costs as much to administer those taxes as it is to collect them.

That is our view of the impact of deregulation on the U.S. economy and what further actions are necessary. I would be glad to field any questions you may have at the end of the panel.

[The statement follows:]

STATEMENT OF CHARLES R. MARCOUX, PRESIDENT AND CHIEF OPERATING OFFICER, LEASEWAY TRANSPORTATION CORP., CLEVELAND, OH

Good morning and thank you for permitting me to testify at this hearing. I am Charles R. Marcoux, the President and Chief Operating Officer of Leaseway Transportation Corp.

As background for my discussion of the effects of motor carrier deregulation, I'd like to describe briefly the structure of our operations. Leaseway Transportation Corp. is a holding company, with more than 100 subsidiaries operating throughout the United States and in Canada and Puerto Rico. These subsidiaries are engaged in a variety of transportation and physical distribution activities, including distribution of automotive components and finished automobiles; common and contract carriage of general bulk commodities; transportation and distribution services for the retail industry; truck-rail-truck intermodal services; full service truck leasing and daily rental of trucks, tractors and trailers; fleet leasing of automobiles and light trucks; personnel leasing and public and contract warehousing. Approximately 75 percent of our operations, representing almost a billion dollar of revenues, are attributable to trucking operations.

These trucking operations are geographically extensive and the types of services provided and goods hauled are quite diverse. Within a particular geographic area our operations might include, for example, an auto haul-away terminal, several general commodity dedicated contract carriage operations, a terminal for our less-than-truckload operation, and a terminal for a subsidiary hauling petroleum products. The majority of these operations are unionized. With well over 10,000 union employees, our subsidiaries collectively constitute one of the nation's largest employers of teamster union members.

I would like to address two related questions today. First, what has been the impact of truck deregulation and the Motor Carrier Act of 1980? And second, what further actions need to be taken in the area of motor carrier regulation?

Looking first at the question of impact, it is the opinion of Leaseway Transportation that the Motor Carrier Act of 1980 has, without question, delivered the economic benefits to the U.S. economy that were promised. Transportation deregulation combined with improved information management have accelerated inventory velocity to unprecedented performance. The U.S. Department of Commerce has reported that the ratio between book value of inventory and the Gross National Product fell below 15 percent in January and has generally remained there. It averaged 18.3 percent during the 10 years between 1973 and 1982.[1] That means that during 1983, the U.S. economy operated with $96 billion less of manufacturing and trade inventory when compared to the level which was required to support U.S. legistics systems in the prior 10 years.

Additional statistics show that annual expenditures for logistics in the U.S. have been reduced by $30 billion since 1981.[2] That is substantially more than the $6 billion in transportation costs savings promised by deregulation's proponents back in 1977 and 1978. Logistics costs declined from 14.7 percent of equivalent GNP in 1981 to 12.1 percent in 1983. It is clear that distribution productivity—powered by transportation deregulation and information management advances—has made a remarkable contribution to our current disinflation.

The transportation portion of these savings have been achieved through a number of related ways. One way has been the shifting of market share to more efficient operators and away from the less efficient. Under regulation, the more efficient operators were constrained from expanding and the less efficient were protected by rate regulation and entry restrictions. Since 1979, a number of carriers who were not cost-competitive have been liquidated. All or virtually all of these carriers were in poor condition prior to the Motor Carrier Act. Deregulation simply hastened their demise. Regulation was like a life-support system that slowly undermined the long-term vitality of our business.

Another source of savings has been the ability of carriers to improve their loaded mile efficiency and thereby reduce wasteful empty mileage. Deregulation freed carriers—both for hire and private—to go where the freight was, not where their operating authority required them to go. Allowing private carriers, for example, to haul inter-corporately without compensation and to form transportation subsidiaries enabled them to significantly reduce their empty backhauls.

There is also the decline in truck labor costs. The regulatory system permitted carriers to pass through their labor cost increases to shippers without difficulty. That ability limited the carriers' incentive to remain steadfast against organized labor's demands. The result was that wages and benefits for truck drivers and dock workers rose well above the levels achieved by workers in many other industries.

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[1] Source: Business Conditions Digest, Bureau of Economic Analysis, U.S. Department of Commerce. See Exhibit 1.

[2] Sources: Transportation in America, Transportation Policy Associates, Washington, DC, November 1983. Dun's Census of American Business and Dun & Bradstreet, Key Business Ratios. See Exhibits 2 and 3.

Deregulation worked to correct this economic imbalance. It forced all carriers—but particularly unionized carriers—to operate more efficiently or face failure. Thus under deregulation, carriers who have done a better job of managing their labor costs have gained market share from high-cost operators. That, we believe, is as it should be in a free enterprise economy.

This transition has clearly benefitted the economy and it has benefitted those workers hired by the carriers who have expanded their operations since the Motor Carrier Act. Total employment in truck driver and delivery driver occupations appears to be at or near record levels, according to U.S. Census figures.[3] Looking at the trucking industry alone—that is, not including private carriage and other trucking services provided by non-trucking companies—employment in 1983 was 4.7 percent below the 1980 level.[4] This decline in employment in traditional trucking companies indicates that manufacturers, retailers, and distributors are utilizing alternate methods of highway transportation.

Clearly teamster union members have borne the brunt of this transition. Most of the large carriers who have gone out of business employed teamster labor. This is unfortunate and a personal tragedy for many individuals. In retrospect, a slower, more orderly transition to a deregulated environment might have reduced the trauma somewhat. But this is hindsight, and it is questionable whether an "orderly transition" would have been possible anyway.

The last source of savings achieved under deregulation has been the reduced profitability of the trucking industry. Earnings for the LTL segment of the industry, for which the best data is available, were negative or less than 5 percent for almost eight consecutive quarters. Return on equity in this segment had once been larger than ROE for the average manufacturer but is now considerably less. Certainly this dissipation of earnings cannot be entirely explained by deregulation. The recession and bad management also played a role.

I think it is worth contrasting the experience of the trucking industry under the Motor Carrier Act with the experience of the railroad industry under MCA's companion, the Staggers Act. The MCA was designed to force the motor carriage sector to become more competitive and even to give back some of its "protected profits." The Staggers Act, on the other hand, was intended to shore up returns in the railroad industry by allowing the rail carriers to raise their rates more easily and more quickly, to abandon undesirable trackage and to sign confidential contracts with shippers. The two laws have each done what they were intended to do. We may have overshot the mark in the area of motor carrier "givebacks" and in the area of railroad returns, but I won't belabor that point. I will say, however, that Congress needs to be careful lest it upset this hard-won competitive equity by loading an excessive tax burden on the trucking sector while failing to compel the rail industry to improve the productivity of its labor and equipment. While trucking labor has seen its wages remain virtually flat since 1982, the rail brotherhoods continue to demand and receive wage increases at three times the rate of inflation.

Let me now turn to my second issue: What further actions need to be taken to allow the U.S. economy to reap the full productivity benefits of truck deregulation?

While most of the Motor Carrier Act of 1980 deals with the economic regulation of the trucking industry, the committee will recall that Section 19 calls specific attention to the problems faced by the motor carrier industry as a result of state licensing, registration and filing requirements. Section 19 required the ICC and DOT to prepare a report to the Congress on this subject.

The report specifically found that current requirements imposed on interstate carriers have evolved over the past 60 years from simple registration of vehicles to a complex structure. The additional burdens of registration, fuel taxes, privilege and use taxes, property taxes, third structure taxes (e.g., ton-mile, weight-distance and gross receipts taxes), ad valorem and sales taxes and fees for initiating tax accounts, purchasing decals and implementing safety programs still have strangle-hold on our industry. Along with these multiple fees have come a myriad of administrative requirements. As these fees and requirements have multiplied, their impact on interstate carriers has become increasingly burdensome.

Mr. Chairman, the burdens continue to multiply and no solution that strikes at the core of the problem has emerged.

The motor carrier industry is faced with multiple systems of licensing, registering and taxing its vehicles and its operations that may have been appropriate to the way industry looked years ago when motor carriers were limited to competing mostly against each other in intrastate and limited regional markets. Now, hundreds of carriers have nationwide general commodity authority. They compete against each other and with other modes. They serve shippers that compete in world markets. In other words, the industry has matured and vastly expanded in size and scope but the system under which its vehicles are licensed, registered and taxed has not.

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[3] Source: "Handbook of Labor Statistics," U.S. Department of Labor. See Exhibit 4.

[4] Source: Transportation in America, Transportation Policy Associates, Washington, DC, July 1984.

We recognize that making major changes in this area will not be easy. The whole concept of financing our highways raises questions about state and federal roles and the appropriate shares to be born by various classes of highway users. We also recognize that some of these questions may be beyond the scope of these present hearings. Nevertheless, we urge you to consider the following two recommendations: First, the time has come for Congress to make a serious high-level review of the way federal, state, and local governments tax motor carriers operating in interstate commerce. Not only does this morass of tax structures pose an unreasonable burden on carriers, but we believe you will find that it costs almost as much to administer many of these taxes as the taxes collect.

This leads to our second recommendation: The time has also come for strategic high-level planning if we are going to meet the long-term financing needs of our highway system. We need a simple, equitable, and rational taxation system that delivers as close to a dollar's worth of road for each dollar collected as possible.

I referred to the burden of the multiple systems of taxation. Equally burdensome to motor carriers is the utter lack of uniformity and reasonableness in state regulation of motor carriage activities. We must continue to press the deregulation reform agenda in the 44 states which regulate motor vehicle transportation in the critical areas of entry requirements for intrastate operating authority, various vehicle registration filings and procedures, taxation, route designations and rates and tariffs.

State-to-state uniformity concerning entry and operating authority, registration and taxation is of the utmost importance for efficiency and quality of service to customers. It may be necessary to look to some type of uniformity, in these areas, to put into place by uniform federal regulations, which for the good of the entire U.S. economy would preempt certain inequitable and self-serving state regulations.

Without the availability of competition between a good number of motor carriers, prices to the consumer or shipper on interstate shipments will continue to escalate especially when combined with excessive intrastate rates.

The case of Texas is an example. It costs more to deliver salt to the Dallas market from a facility 50 miles away than it does from a plant in Kansas. Shippers are complaining that it costs less to ship from Los Angeles to Houston than from Dallas to Houston. The historic criteria defining interstate vs. intrastate commerce must be reexamined. Another case in point: Manufacturers and retailers operating their own private truck fleets recently won the right to lease both trucks and drivers from a single source. This productive arrangement is available to private fleets operating on a interstate basis. It is not available to many private fleets whose operations are predominantly intrastate. And it is unclear what course is open to the private carrier serving customers both within and outside of his home state. The precedent of distinguishing between interstate and intrastate commerce based on when commerce comes to rest reflects a bygone era. Orders are no longer transmitted by mail for goods shipped by rail. Today we are transmitting orders via telecommunications and we are on the threshold of satellite-directed vehicles. State regulation of transportation represents a clear burden on interstate commerce in the 1980s.

That is our view of the impact of deregulation on the U.S. economy and on what further actions are necessary. In sum, while the changes have caused hardship to some, the total impact has been positive and essential to the current strenght of the U.S. economy. However, further increases in transportation productivity are stymied by outdated and self-serving state regulation and threatened by an ever-increasing and inequitable tax burden.

Finally, I would like to add that Leaseway Transportation was one of the few trucking companies to support deregulation from the first. We took this position, and we hold to it now, because we believe that a free market system will work in trucking and because—unlike many of our competitors in the trucking industry—we saw ourselves constrained by regulation.

The Motor Carrier Act of 1980 provided opportunities which we have pursued by entering new businesses, providing new services and offering alternative price/service options on existing services. Some have been successful, others have not, and all have involved risks. Neither we or any other company can or will take such risks without an ample opportunity for adequate return. In time, a free market should balance the recent negative trends in trucking profitability, that is, it should if it's a free enough market. The Motor Carrier Act of 1980 turned loose the market forces of competition to the benefit of the shipping public, but at least in the short term to the detriment of our industry. We have been hard hit also by substantial increases in our federal tax burden and states see us as fair game in their search for alternative and increased revenue sources, which we as an industry in a weakened condition are hard pressed to counter. This country will not be well served by a trucking industry that is taxed unfairly and to its detriment. We need your help and we will be happy to provide you with whatever assistance you may require from us.

EXHIBIT 1.—IN 1983, THE U.S. ECONOMY OPERATED WITH $96 BILLION LESS OF MANUFACTURING AND TRADE INVENTORY COMPARED TO THE LEVEL REQUIRED TO SUPPORT THE U.S. LOGISTICS SYSTEM IN THE PREVIOUS TEN YEARS

[Transportation deregulation and information management breakthroughs have accelerated inventory velocity]

Year ending	In current dollars		Ratio
	GNP trillion dollars	Inventory billion dollars	
1973	1.33	240	18.05
1974	1.43	286	20.00
1975	1.55	288	18.58
1976	1.72	319	18.55
1977	1.92	351	18.28
1978	2.16	397	18.38
1979	2.42	444	18.35
1980	2.63	483	18.37
1981	2.94	520	17.69
1982	3.07	520	16.94
10 year average			18.32
1983 (est.)	3.31	510	15.41

Source: Business Conditions Digest, Bureau of Economic Analysis, U.S. Department of Commerce.

Exhibit 2.—Estimate of U.S. Logistics Cost—1982

	(Billions)
Freight transportation (Note 1):	
Motor carriers:	
For-hire	44
Private, shipper-affiliated, exempt	66
Urban freight services, bus	73
Railroads	27
Water carriers:	
International	8
Domestic	6
Oil pipeline	8
Air carriers	4
Forwarders, brokers, agents (net)	1
Shipper related costs	3
(Subtotal)	240
Warehousing and storage (Note 2):	
Public	5
Private	53
(Subtotal)	58
Inventory carrying (Note 3) (subtotal)	102

	(Billions)
Administration (Note 4) (subtotal)	17
Total U.S. logistics	417

Data sources:

Note 1: Transportation in America, Transportation Policy Associates, Washington, DC, November 1983.

Note 2: Private—Dun's Census of American Business and Dun & Bradstreet, Key Business Ratios. Public—Extrapolated from 93 percent share of total market.

Note 3: 30.7 percent of inventory book value less allocation for warehousing.

Note 4: 4 percent of total logistics cost.

EXHIBIT 3

Transportation deregulation, information management and inventory velocity reduced the annual expenditures for U.S. Logistics by $30 billion between 1981 and 1983.

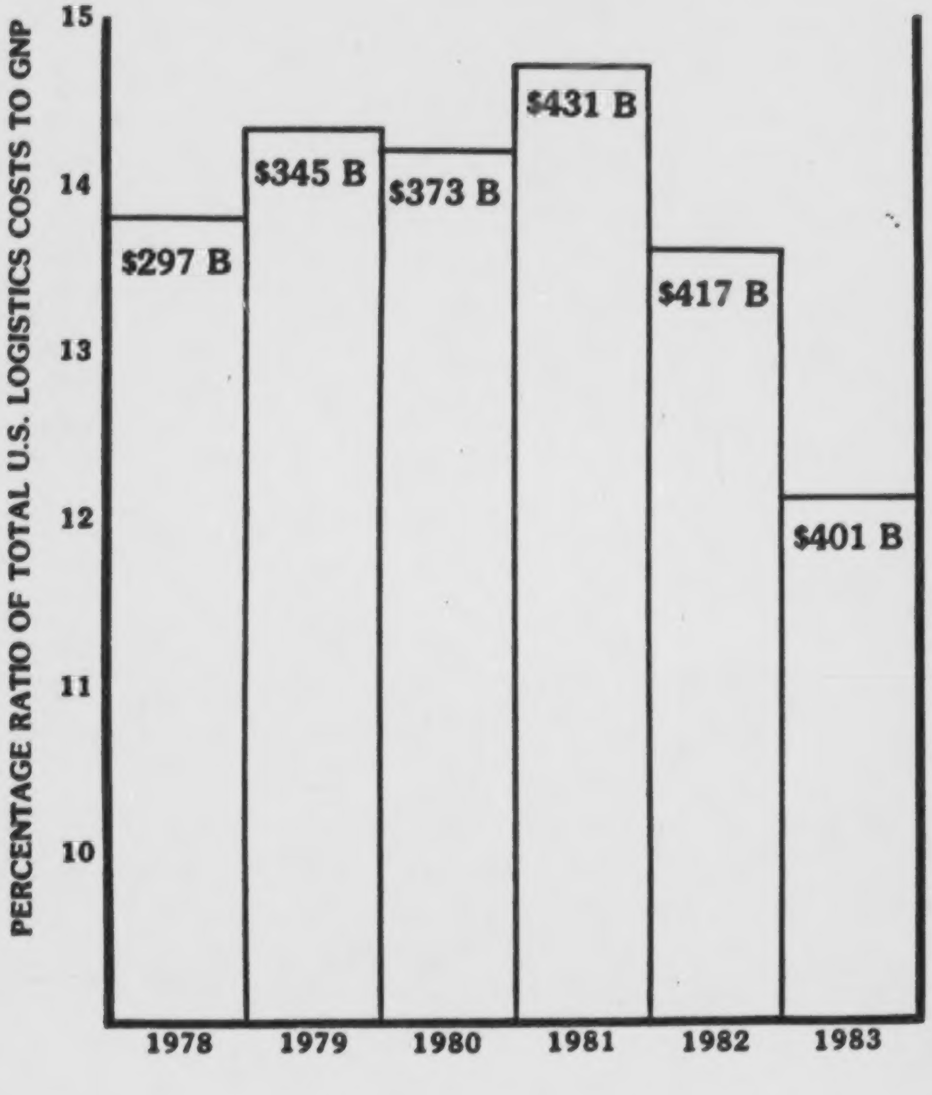

EXHIBIT 4.—EMPLOYMENT IN SPECIFIC TRANSPORTATION OCCUPATIONS

[In thousands]

	1980	1981	1982	1983
Delivery and route workers	598	563	574	[1] 365
Truck drivers	1,878	1,878	1,841	[1] 2,195
Total	2,476	2,441	2,451	[1] 2,560
Percent change year to year		−1.4	+0.4	[1] +4.4

[1] The Census Bureau revised its employment categories for 1983, possibly making 1983 data less than perfectly comparable with earlier years.

Source: "Handbook of Labor Statistics," table 17, U.S. Department of Labor.

The **Chairman**. Thank you.

Mr. Sarefield.

Mr. **Sarefield**. Thank you, Mr. Chairman. My name is John Sarefield. I am the director of distribution for the grocery products group of Borden, Inc. in Columbus, OH, and I am also a member of the board of directors and chairman of the law committee of the Private Truck Council.

With me today is Richard Henderson, executive vice president of the Private Truck Council, and Richard Schweitzer, PTCA legislative council.

I am very pleased to report that in 1983, private carriers operated more miles per tractor, ran fewer empty miles, and at a lower real cost per mile than in the previous year. In part, this reflects the general upturn of the economy. But it also has resulted from our ability to engage in compensated intercorporate hauling, to establish separately incorporated transportation subsidiaries, to haul exempt agricultural commodities; in the food industry, to give and to take backhaul allowances on a cost-justified basis, and to operate as for-hire carriers to supplement private carrier operations.

All but the last of these options were made possible by the 1980 Motor Carrier Act.

In addition, this past year has seen private carriers win the right to trip lease drivers and equipment to regulated carriers, thereby further reducing empty mileage. Private carriers have also won the right to lease both drivers and equipment from single unregulated sources.

Each of these new rules resulted from the Interstate Commerce Commission's implementation of the National Transportation Policy, as amended in the Motor Carrier Act.

The PTCA has further petitioned the Interstate Commerce Commission to remove the 30-day minimum lease term requirement for single source leases of drivers and equipment to private carriers.

However, the expanded Federal parameters of private fleet operation have not been enacted at the State level for intrastate movements. Many States do not recognize single source leasing, trip leasing, or intercorporate hauling as legal private carriage. Thus, in many cases, private fleets have been forced to split their operations into intra- and interstate sections, and this has proven to be very costly and somewhat impractical. In other cases, they have simply foregone the operating flexibility that has been envisioned under the act.

The PTCA seeks Federal preemption of State economic regulatory authority on all movements that affect interstate commerce to ensure that the efficiencies granted in the Motor Carrier Act will not be lost to the States.

On a personal level, Borden's Grocery Products Group has particularly taken advantage of section 8 of the Motor Carrier Act. In doing so, we had to totally analyze our customers' purchasing and transportation characteristics and put together a national program to market, to use the backhaul provisions of the act as a marketing tool. The results of that program have been that we have moved our customer pickups from 17 percent of our tonnage when we began the program to 42 percent of the tonnage in the first year. This year it is running at a rate of 45 percent of our tonnage. There have been excellent results from it, and that means that we have passed on in terms of cost-justified backhaul allowances, $1.2 million to our customers.

In summary, the PTCA strongly urges that Congress enact legislation preempting the rights of States to restrict or prohibit use of the operating options as permitted by the Federal Government. Ours is a national transportation system serving a national economy. We cannot allow the unwieldy nature of divergent and often conflicting State regulatory schemes to stem the flow of interstate commerce.

We ask this committee, through legislation, either to clarify the options available under the existing Motor Carrier Act, or to totally deregulate the trucking industry, in order to preempt States from regulating where the Federal Government has decided that free market principles are preferred.

Thank you very much.

[The statement follows:]

STATEMENT OF JOHN G. SAREFIELD, ON BEHALF OF THE PRIVATE TRUCK COUNCIL OF AMERICA, INC.

Mr. Chairman and members of the committee: My name is John G. Sarefield; I am Director of Distribution for the Consumer Products Division of Borden, Inc. in Columbus, Ohio, and a member of the Board of Directors and Chairman of the Law Committee of the Private Truck Council of American, Inc. ("PTCA"). With me today are Richard D. Henderson, PTCA Executive Vice President, and Richard P. Schweitzer, PTCA Legislative Counsel. We appreciate the opportunity to inform this committee of how the Motor Carrier Act of 1980 ("the Act") has enhanced private carrier operations for our members in general, and particularly for Borden through the use of backhaul allowances authorized in Section 8 of the Act.

PTCA is the only independent national organization representing the interests of non-transportation companies operating private truck fleets. Our approximately 1,800 members comprise a cross-section of American manufacturing, processing and retailing industries, and include a number of Fortune 500 companies as well as many small concerns. Private carriage is generally recognized as the largest of the nation's trucking industry.

PRIVATE CARRIER OPERATING STATISTICS

In 1983 private carriers operated more miles, ran fewer empty miles, and for a lower cost in real terms than the year before. In part this reflects the general improvement in the economy, but it also is a result of new operating efficiencies stemming from the Act and its implementation by the Interstate Commerce Commission.

The following data shows the extent of this improved productivity. These figures were compiled by A. T. Kearney Management Consultants, Inc. as part of PTCA's annual Private Fleet Cost Index begun in 1981, and reflect tractor-trailer operating statistics for the years noted.

PRIVATE FLEET—TRACTOR-TRAILER OPERATING DATA

	Annual miles per tractor	Percent empty miles	Cost per mile	
			Current dollars	Constant dollars
1981	100,300	22	1.25	1.25
1982	91,100	24	1.26	1.19
1983	97,000	21	1.29	1.18

Private fleets increased the use of existing equipment and ran more efficiently by reducing the percentage of empty miles. Most significantly, the cost per mile in constant dollars to operate a tractor-trailer in a private fleet has decreased in each of the past two years.

Section 4 of the act amended the National Transportation Policy, 49 U.S.C. 10101, to include promotion of energy and economic efficiency in truck operations as an objective of the federal government. The reduced empty miles and reduced operating costs shown above testify to the benefits private carriers have enjoyed under the amended policy.

NEW OPERATING FLEXIBILITY FOR PRIVATE CARRIERS

The recognition of compensated intercorporate hauling by 100 percent owned subsidiaries as private carriage in section 9 of the act has substantially helped private carriers to increase fleet productivity. Coupled with the use of supplemental backhaul authority under the decision in *Toto Purchasing and Supply Co., Inc.* 128 M.C.C. 873 (1978),[1] many companies have established separately incorporated transportation subsidiaries to haul for the parent under the CIH exemption and to operate as a for-hire carrier on the backhaul. According to the 1983 PTCA Private Fleet Cost Index, 19 percent of private carriers with tractor-trailer fleets presently have *Toto* authority and 22 percent plan to apply for it in the near future; 45 percent of private tractor-trailer fleets participated in compensated intercorporate hauling in 1983; and 26 percent of the 1983 survey respondants indicated they had either established or planned to establish a separate transportation subsidiary.

These changes in private carrier operations are responsible for the increased efficiency of private trucking, and are directly the result of changes in the law and regulatory atmosphere pursuant to enactment of the 1980 Motor Carrier Act.

PTCA is even more anxious to compile the 1984 data to observe the operational effects of two new Interstate Commerce Commission decisions which have drastically altered the way private carriers may now operate fleets. By order of the United States Court of Appeals for the Eleventh Circuit dated February 2, 1984, the stay was lifted on implementation of the ICC decision in Ex Parte No. MC-43 (Sub-No. 12), Leasing Rules Modifications, permitting private carriers to trip-lease drivers and equipment to an authorized carrier. Petition for judicial review of the ICC ruling was denied by the court on February 17, 1984. *Osborne Truck Line and Steel Carriers' Tariff Assn., Inc.* v. *ICC and U.S.A.*, No. 82-8787, (11th Cir., 1984). Thus, private carriers can now further reduce empty mileage by leasing their vehicles and drivers to authorized carriers and thereby eliminate what would have been an empty backhaul.

Trip-leasing allows private carriers to reduce empty mileage without obtaining Toto authority and "getting into the trucking business." For private carriers not wanting to expend the managerial resources necessary to run a for-hire operation nor expose the company to additional public liability, trip-leasing represents a less demanding method of achieving the energy and operating efficiency intended in the National Transportation Policy. The desirability of this option among private fleet operators is well-documented. PTCA's private fleet data for 1983 shows 69 percent of respondants during the appellate proceedings were interested in trip-leasing if it became available. Since the U.S. Court of Appeals decision, PTCA has been innundated with inquiries on the potential benefits and operating requirements of trip-leasing, and we have responded with a series of publications and seminars on the topic. Our observation is that trip-leasing to regulated carriers should significantly enhance private fleet productivity in 1984 and thereafter.

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[1] Subsequently affirmed by the Commission's policy statement in Ex Parte No. MC-118, Grant of Motor Carrier Operating Authority to an Applicant Who Intends to Use It Primarily as an Incident to the Carriage of Its Own Goods and Its Own Non-Transportation Business, decided November 20, 1978, affirmed sub nom., Mercury Motor Express, Inc. v. U.S.A. and ICC, 648 F.2d 315 (5th Cir., 1981).

Another major judicial victory for private carriers this past year was the U.S. Court of Appeals decision upholding the ICC policy statement in Ex Parte No. MC-122 (Sub-No. 2) permitting private carriers to lease drivers and vehicles from a single, unregulated source without the transaction resulting in illegal for-hire transportation, *Ryder Truck Lines, Inc.* v. *U.S.A. and ICC,* 716 F.2d 1369 (1983); cert. den. —— U.S. —— (1984), Docket Nos. 83-943, 83-1030, 83-1119.

Single source leasing permits private carriers to utilize independent owner-operators without placing the driver on the payroll as a regular employee. In addition, private carriers may lease drivers and equipment from a single leasing company, or even another private carrier, under this decision. This affords the lessee considerable flexibility when seasonal demands require increased fleet capacity, and permits the lessor to employ underutilized equipment and personnel in a more productive manner.

While it will take longer for the effects of the single source leasing decision to become apparent, it too is a topic of great interest to private fleet operators. Some 61 percent of respondants to the 1983 Private Fleet Cost Index stated they would consider single source leasing if it became available.

The ICC statement in Ex Parte No. MC-122 (Sub-No. 2) did, however, place a 30 day minimum lease term on leases of equipment and drivers to private carriers. The only justification given was that a similar minimum term was also required of leases to authorized carriers. Since then, the Commission has approved trip-leasing from private carriers to authorized carriers (without any minimum lease term) as discussed above, and has proposed eliminating the 30 day term for other leases of owner-operated equipment to authorized carriers in Ex Parte No. MC-43 (Sub-No. 15).

On May 25, 1984, PTCA petitioned the Commission to modify its policy statement in Ex Parte No. MC-122 (Sub-No. 2) to eliminate the 30 day minimum term in single source leases to private carriers. As the Commission has acted to remove the only justification for denying this request, PTCA argued that different standards for private and authorized carriers would discriminate against private carriage. There has yet been no response to our petition from the Commission.

LACK OF UNIFORMITY IN STATE REGULATION, TAXATION

Even though private carriers have been successful at the Federal level in gaining new options (i.e., trip-leasing, single source leasing, compensated intercorporate hauling, backhaul allowances, *Toto* common or contract authority, exemption of agricultural commodities), these new options are not readily available on an intrastate basis due to intransigent economic regulation at the State level. Some 44 States still regulate entry into the trucking industry, and the vast majority of States have not been as liberal as the Federal Government in amending regulations and policies to make private fleets more productive.

For instance, a large majority of states consider a lease of equipment and drivers to a private carrier to be for-hire transportation by the lessor, precluding the use of single source leasing on an intrastate basis. Many States prohibit trip-leasing from private to regulated carriers, also considered to be illegal for-hire carriage. Compensated intercorporate hauling is not recognized as valid private carriage in a number of states, and, of course, intrastate common or contract carrier authority as an adjunct to private carrier operations is virtually unobtainable in several states due to the rigidity of the applications process.

Differing economic regulation at the state and federal levels means many private fleets are unable to use the federal options because some of their truck operations are intrastate in nature. The choice is either to separate one's fleet into interstate and intrastate sections (an expensive and impractical solution) or to comply with the most restrictive set of regulations applicable to one's fleet. In addition, some states place fees and/or operating restrictions on interstate use of options approved at the federal level. Georgia, for instance, does not recognize compensated intercorporate hauling as legitimate private carriage on an intrastate basis; prior to conducting CIH on an interstate basis, Georgia requires a private carrier to: (1) file a prescribed form requesting a registration permit, and pay a $25 registration fee; (2) submit a copy of the Federal Register notice for the CIH operations published by the ICC; (3) have each of the vehicles engaged in CIH carry this notice; (4) register each vehicle to be operated in Georgia and purchase a $5 identification stamp for each vehicle; and (5) have its liability insurer file evidence of insurance with that state.

Only after the private carrier has made these filings and paid these fees, and Georgia has issued the registration permit, may the private carrier conduct exempt CIH through Georgia, even though the private carrier has previously complied with all requirements relating thereto prescribed by the Motor Carrier Act of 1980 and the ICC.

Private carriers are thus unable to receive the full measure of productivity gains envisioned by the act and subsequent ICC decisions. In many instances, trucks run empty, fuel is wasted, and consumer costs rise because of a fragmented State regulatory network. The report on uniform State regulations mandated by section 19 of the act documented the inefficiency resulting from non-uniform economic regulations.

PTCA strongly urges the Congress to enact legislation pre-empting the rights of states to restrict or prohibit use of the operating options as permitted by the Federal Government. A transportation service, legal if crossing a State border, should not be rendered illegal if the destination falls short of the border.

Ours is a national transportation system serving a national economy; we cannot allow the unwieldy nature of divergent and often conflicting state regulatory schemes to stem the flow of interstate commerce. PTCA believes Congress has the authority to override burdensome state economic regulation under the precepts of the Interstate Commerce Clause and the Necessary and Proper Clause of the U.S. Constitution. We ask this committee, either through legislation to clarify the options available under the existing Motor Carrier Act, of in legislation to totally deregulate the trucking industry, to preempt the states from regulating where the Federal Government has decided free market principles are preferable.

The States have also established a patchwork system of vehicle registration, fuel tax reporting and payments, third structure taxes, retaliatory taxes, reciprocity and apportionment of fees. The Section 19 report illustrated in great detail the overwhelming administrative burden this system places on interstate carriers. The Secretary of Transportation has estimated that carriers spend approximately $1 billion annually just in filling out forms and making the necessary calculations to pay State taxes and fees; this figure does not include the amount of the taxes and fees themselves.

PTCA has been advising a group of state highway, revenue, budget, and motor vehicle adminstration personnel, who have been meeting under the aegis of the National Governor's Association (NGA), in an effort to establish a uniform system of State administration. This NGA working group plans to make a proposal to the Department of Transportation for grant money to fund an 18-24 month study of the uniformity issues, and make recommendations bassed on their findings.

Even if the working group devises a plan acceptable to the states, the Federal Government and the carriers, it will not be accepted on a national basis without some form of pre-emptive Federal legislation. Experience has shown that not all states will voluntarily adopt a plan of cooperative effort, no matter how unthreatening to state authority or beneficial to motor carriers. PTCA urges the Congress to incorporate the deliberations of the NGA working group into legislation which will ultimately establish a nationally uniform system of administering registration fees and fuel taxes, and pre-empt additional state taxing mechanisms. The States should lose no highway revenue, and truck operators will be relieved from a costly and unjustifiable burden.

PTCA has sued the State of Indiana over the constitutionality of the State's indefinite situs property tax, which imposed a "property tax" on non-Indiana based vehicles operating in Indiana. This tax supposedly corresponded to local property taxes that Indiana-based carriers paid, but the Hendricks County Circuit Court found it discriminated against interstate commerce, and the Indiana Supreme Court recently agreed. Over $18 million in tax payments and interest will be turned to interstate carriers in the next few months.

However, the success in Indiana does not mean that the courts are an expedient means of solving the problem of nonuniformity. The Indiana suit required thousands of dollars and over 2 years to prosecute; this is merely one tax in a single State. More importantly, most State tax and fee structures will pass constitutional muster, but still place a substantial burden in administrative costs on the interstate carrier. Federal legislation is the only sure way to redress the problem while considering the interests of both the carriers and the States.

BORDEN, INC. GROCERY PRODUCTS GROUP BACKHAUL ALLOWANCE PROGRAM

Borden, Inc. is a large consumer product and chemical company with net sales in 1983 of $4.7 billion. The Grocery Products Group is the most diverse of the six groups comprising the Consumer Products Division. Through our six profit centers we manage all domestic nonperishable grocery products, cheese, confections, aseptic products and a broad range of specialty and industrial products.

The Grocery Products Group is characterized, for the most part, by a distribution channel from Borden warehouses to our customers' warehouses. We have very little route sales or store door delivery operations. Our customers are the retail grocery chain stores and the wholesale distributors serving the independent retail grocery community.

Prior to the passage of the Motor Carrier Act of 1980, Borden had been guided by the Robinson-Patman Act and FTC advisory opinions pertaining to the area of backhaul allowances. We offered to all of our customers an allowance of $0.45/cwt off our delivered prices regardless of weight picked up or distance traveled. This was a composite of our actual cost from our warehouses to the nearest customer. Naturally, since the allowance did not cover basic transportation costs for most customers, very few customers availed themselves of backhaul opportunities.

The passage of the Motor Carrier Act of 1980, and in particular section 8 of that act, opened new doors for Borden to provide additional cost savings and operating efficiencies to our customers. Extensive investigation and analysis on our part showed that significant opportunities existed to develop a backhaul program with long term benefits for the grocery trade.

The following key opportunities were identified and used as the basis for development of the Borden Backhaul Program.

More and better options in the purchase and distribution of food products. Distributors can decide to pick up order or have them delivered.

Improved fleet utilization. Distributors can fill trucks (which previously returned empty) with revenue-generating loads.

Better management of inventory.

Improved material flow and handling. Distributor can schedule inbound orders to achieve optimum labor efficiencies on their receiving dock and in their warehouse.

All these benefits and cost savings allows the distributor to operate more efficiently, thus allowing lower retail prices to be passed along to the consumer.

Keeping these key points in mind, a detailed study of our customers' order cycles was conducted. Both large and small customers were analyzed. We looked at the weight of orders, order frequency, the cube of orders, existing warehouse service areas, actual mileage to customer locations and carrier rates by service areas. This information was used to determine the impact that a full-scale backhaul program would have on our customers.

We also asked our customers for input. A Customer Service Survey was conducted with a twofold purpose. First, to determine how our customers viewed our distribution practices; and, secondly, to determine interest in expanded backhaul programs. The responses confirmed that backhaul was being viewed as a key program for the 1980's: 74 percent stated that they would be interested in backhaul opportunities with Borden based on implementation of a cost justified backhaul program; 88 percent were currently utilizing backhaul with other manufacturers; and 58 percent anticipated expanding their fleet operations.

Individual, personal interviews were also conducted with some of our customers to obtain additional information.

An audit was done to ensure that we were ready to meet the challenges of an expanded backhaul program. Systems changes to accommodate such a program were made in our automated order processing system.

A cost justified backhaul allowance schedule was developed. Consolidated rates for irregular route carriers were used to accurately reflect the actual cost savings to Borden resulting from customers picking up products. The rate schedule was based on the average cost within concentric zones from the various Borden warehouses. These zones are defined in 20 mile increments up to 100 miles and 25 mile increments when beyond 100 miles.

Using the Household Goods Mover Mileage Guide and the PUCO schedule 8 for California, customers were assigned to zones based on the actual distance from the Borden warehouse normally servicing their geographic area.

A minimum backhaul order size of 5,000 lbs. was established. Low minimum order qualifications allow customers to order product when they need it, rather than holding for weight. This feature also makes the program attractive to small and large customers alike.

The new Backhaul Program was introduced in the test markets in March 1982. During the test period which extended through November 1982, significant interest in the program was evidenced by the level of participation.

Attachment I shows a comparison of the percent of total tonnage backhauled prior to and during the test. The overall increase was from 10 percent to 54 percent. Over $200,000 was given back to customers in the form of backhaul allowances during this initial test period.

Based on the successful testing, Borden's backhaul program was introduced nationally in December 1982.

The national introduction was preceded by an intense sales training program emphasizing that backhaul is not just another way of getting product to our customers. It is a powerful sales tool offering more and better options such as: increased profitability, increased flexibility and more cost efficient customer transportation operations.

Customer presentations were made to explain the program. Individual customer analyses were utilized to show the opportunities and actual dollar savings available through backhauling Borden products.

Results of backhaul for the first full year and year-to-date, 1984 compared to the year prior to deregulation are shown in Attachment II. Overall, there was a dramatic increase from 17 percent to 45 percent of our total through warehouse tonnage being backhauled.

During the first year, approximately 450 wholesale and chain accounts backhauled Borden products. Of these, 36 customers backhauled over one million lbs. and 60 customers backhauled between one-half and one million lbs.

In total, 160 million pounds were backhauled by Borden customers in the first full year. Backhaul allowances provided to the grocery trade amounted to $1.2 million. This equates to our average allowance of $.75/cwt.

Borden's program has attracted both the small independent grocers as well as large regional wholesalers. Backhaul customers are not restricted just to those within close proximity to their assigned Borden warehouses. This is exemplified by backhauls from Portland, Oregon by Montana customers (881 miles) and from Birmingham, AL by Miami, FL customers (749 miles).

Borden's commitment to offer a viable backhaul for its customer is long term. This is evidenced by continued logistical support provided to the customers as well as periodic reviews to ensure that the program keeps pace with the transportation industry.

Borden is continuing to address backhaul individually with its customers. Follow-up presentations are being made to generate interest in areas with low participation levels. Borden personnel also intervene to resolve logistical problems relative to backhaul as they occur.

Backhaul allowances are reviewed on a scheduled basis to ensure that the actual cost of distribution is accurately reflected. Non-scheduled reviews are also conducted in response to changes in the transportation industry. Borden's warehouse network is under constant scrutiny to ensure that product is accessible to all customers.

In summary, the deregulation that was provided for under Section 8 of the Motor Carrier Act of 1980 has dramatically affected the way the Grocery Industry operates from a distribution standpoint. The participation levels in Borden's program in addition to the favorable reports by the ICC to Congress exemplifies that the spirit of the Act and deregulation in general, has had positive effects on the industry and ultimately, THE CONSUMER.

ATTACHMENT I.—BACKHAUL TEST ACTIVITY COMPARISON BY MARKET

[Percent]

Market	Pickup tonnage prior to test	Pickup tonnage during test
Los Angeles, CA	9	72
San Francisco, CA	12	68
Phoenix, AZ	0	47
Buffalo, NY		
Syracuse, NY	2	35
Albany, NY		
Scranton, PA	49	79
Richmond, VA		
Norfolk, VA	0	38
Roanoke, VA		
Baltimore, MD	0	32

ATTACHMENT I.—BACKHAUL TEST ACTIVITY COMPARISON BY MARKET—Continued

[Percent]

Market	Pickup tonnage prior to test	Pickup tonnage during test
Kansas City, KS	59	74
Wichita, KS	0	65
Springfield, MO	0	58
Overall	10	54

ATTACHMENT II.—BORDEN BACKHAUL PARTICIPATION (PERCENT OF TOTAL THROUGH WAREHOUSE TONNAGE)

	(1981) prior to deregulation	First Yr. Borden Program	Second Yr. Borden Program
Eastern	9	49	53
Central	17	41	38
Southeast	27	38	42
Southwest	14	30	34
Western	18	63	64
Total	17	42	45

The CHAIRMAN. Mr. Cody.

Mr. CODY. Mr. Chairman, my name is E.M. Cody. I am the distribution manager of GoodMark Foods of Raleigh, NC. We manufacture and distribute the little meat sticks called Slim Jim.

Today, I appear before you as the second vice president of the Private Carrier Conference of the American Trucking Associations. The PCC is very grateful for this opportunity to present oversight testimony in this, the fourth year since the implementation of the act.

Last year, a representative of our conference presented written testimony before your committee to the effect that, by and large, private carriers throughout the Nation are very satisfied with the implementation of the act at the Federal level. Since that 1983 testimony, private carriers have gained even further advantages as a result of the enlightened policies of the ICC being upheld by Federal courts.

One new advantage relates to private carriers being able to trip lease surplus trucks and drivers for use by ICC-regulated carriers. The most recent new option allows private carriers to obtain trucks and drivers for periods in excess of 30 days from single source lessors.

The latest option being sought by our conference from the ICC is the short-term, so-called trip leasing of trucks and drivers by private carriers. Notwithstanding the great success which private carriers have had at the Federal level in gaining additional options such as compensated intercorporate hauling, backhaul allowances, the hauling of exempt agricultural commodities, the acquisition of contract and common carrier authority to be used as a basis supplemental to their private carriage. And, of course, as I just mentioned, trip leasing to ICC-regulated carriers in single source leasing.

Private carriers have been encountering increasing difficulties at the State level. This is because of the high degree of regulation of the trucking industry that still remains in most of the States. For your information, 44 of the 50 States still regulate trucking operations rather heavily, certainly in sharp contrast to the greatly reduced regulation put into effect at the Federal level.

For the most part, private fleets are used on a combined or dual basis for both intrastate and interstate movements, so an operating privilege which exists for the private carrier at the Federal level, but does not exist in counterpart at the State level, can frustrate severely the implmentation by the private carrier of these options.

It is not sufficient to have these rights solely at the Federal level. They must be paralleled at the State level. As an example, attached to my written testimony are the results of a recent survey conducted by our conference of State regulatory bodies with respect to the single source issue. Some States permit it, others do not.

Clearly, the Congress eventually is going to have to deal with these problems. We do not see how Congress can allow reforms enacted as a result of the Motor Carrier Act of 1980 that have benefited private carriers at the interstate level to be frustrated at the intrastate level.

As a matter of fact, just last week on September 10, the Coalition on Intrastate Private Carrier Options met in Washington to address the need for the Federal preemption of inconsistent State regulations. Numerous trade associations and other interested parties including the Private Carrier Conference are members of that coalition. It is expected that several other members of that coalition will address Congress about the need for Federal preemption or some other alternative such as withholding highway funds.

As we view it, therefore, States that do not go along with the implementation by private carriers of the same options that have become available at the Federal level are unreasonably burdening the efficient movement of traffic by private carriers in interstate commerce.

I appreciate that this comes under the heading of States' rights with all its political sensitivity. Nevertheless, we think that Congress is going to have to be quite forthright about acknowledging these problems and adamant about resolving them. As a matter of fact, the conference understands that legislation drawn up by the Department of Transportation would establish a study commission to review the problems just mentioned. However, as we understand it, such legislation would stop short of recommending outright preemption.

The Private Carrier Conference recommends outright preemption as the only workable, practical solution to these problems. Otherwise, private carriers will have to confront the frustration of these federally approved options at the State level on a State-by-State, case-by-case basis. This will result in incredible delays, great expense, and the continued inability of many private carriers to draw down on the Federal options that were designed to improve productivity and fuel utilization. This does the economy of our country no good, and obviously is completely undesirable.

This is why the Private Carrier Conference earnestly solicits the help of Congress in addressing this important and growing predicament, and we thank you for the opportunity to present this testimony.

[The statement follows:]

STATEMENT OF E.M. CODY, SECOND VICE PRESIDENT, PRIVATE CARRIER CONFERENCE, INC.

Mr. Chairman and Members of the Subcommittee: I am E.M. Cody, Distribution Manager, GoodMark Foods, Inc. of Raleigh, North Carolina. I appear before you today as Second Vice-President of the Private Carrier Conference Inc. of the American Trucking Associations. PCC is very grateful for this opportunity to present oversight testimony in this the fourth year since the implementation on July 1, 1980 of the Motor Carrier Act of 1980. Last year, a representative of the Private Carrier Conference presented written testimony before your committee to the effect that private carriers throughout the nation are largely very satisfied with the implementation of the 1980 Act at the federal level. Since that 1983 testimony, private carriers have gained even further advantages as a result of enlightened policies of the Interstate Commerce Commission being upheld by the federal courts.

TRIP LEASING TO ICC-REGULATED CARRIERS

One new advantage related to private carriers being able to trip lease surplus trucks and drivers for use by ICC-regulated carriers. This is mutually enhancing of the efficiency of the trucking operations not only of private carriers, but also of ICC-regulated carriers. On February 17, 1984 the United States Court of Appeals, having previously lifted a stay of a favorable Commission decision on February 2, 1984, affirmed an important decision of the Interstate Commerce Commission permitting the trip leasing of trucks and drivers utilized by private carriers to ICC-regulated carriers. Trip leasing now is underway among the nation's private carriers and the nation's ICC-regulated common and contract carriers.

So when a private carrier has an extra truck and driver and would otherwise face an empty haul, it may trip lease that truck and driver to an ICC-regulated carrier that needs it in the conduct of its own operations to serve shippers which the ICC has authorized that carrier to serve. This trip lease privilege is comparatively new. So we do not have any hard statistics on its utilization in the marketplace as of this early date. But as time goes on, we believe at the Private Carrier Conference that this privilege will be exercised widely among both private and for-hire carriers. It is a tribute to the wisdom of the Interstate Commerce Commission that it has promulgated such a policy which has now been affirmed by the Federal Court of Appeals in Atlanta.

SINGLE-SOURCE LEASING

This is the most recent new option which private carriers have as a result of a favorable decision of the United States Supreme Court on April 2, 1984. Under this decision, promulgated by the ICC pursuant to the enlightened policy of the Motor Carrier Act of 1980, private carriers may obtain trucks and drivers for periods in excess of 30 days from single-source lessors. This includes owner-operators and single-source truck and driver leasing companies. Previously, private carriers had to obtain trucks and drivers under lease from separate, unrelated sources. Moreover, if they wanted to use an owner-operator, they had to put the owner-driver on the payroll as a regular employee and separately lease his vehicle. This greatly compromised the ability of private carriers to utilize owner-operators. Now owner-operators have access directly to private carriers in addition to the historical access they have had under a lease arrangement to ICC-regulated common and contract carriers. Here, too, it is too early to tell in terms of marketplace acceptance what the impact of single-source leasing will be with respect to owner-operators or other single sources. We believe it will take about another year or so for private carriers to begin to implement on an increasing basis single-source leasing and we would hope to report to the Congress at such time about the acceptance and utilization of this new option.

SHORT-TERM (TRIP) LEASING OF TRUCKS AND DRIVERS BY PRIVATE CARRIERS

This is the latest option being sought by the Private Carrier Conference from the Interstate Commerce Commission. The Conference hopes that the ICC will shortly release a policy proposal for public comment looking toward the classification as lawful private carriage of the short-term utilization by private carriers of trucks and drivers, whether obtained from owner-operators, other single sources including other private carriers or from separate, unrelated sources. Implementation of the proposal of the Private Carrier Conference, addressed in the form of a petition for declaratory order to the ICC on June 11, 1984, would increase greatly the utilization and efficiency of trucks and drivers amongst private carriers.

For example, a private carrier needing a truck and driver for a single trip would be able to contact single or separate source lessors or an owner-operator for these instrumentalities of transportation. Moreover, that private carrier would also be able to trip lease a truck and driver from another private carrier to whom such truck and driver for the time being were surplus. Obviously, this would make for increased utilization of such trucks and drivers amongst the nation's private carriers, thereby enhancing productivity and overall fuel utilization for the operation of loaded vehicles. These private carriers would have to meet, as proposed by the Conference, the same control and responsibility criteria enunciated by the Commission in its famous single-source decision of February 17, 1982.

Private carriers hope to have this relief from the Commission in about a year or so. This would probably be the last significant option sought by private carriers from the Interstate Commerce Commission, an option which would be entirely consistent with the philosophy of competition and effective equipment utilization enunciated in the Motor Carrier Act of 1980.

INTRASTATE OPTIONS EXERCISE (FEDERAL PREEMPTION)

Notwithstanding the great success which private carriers have had at the federal level in gaining additional options (such as compensated intercorporate hauling, backhaul allowances, the hauling of exempt agricultural commodities, the acquisition of common or contract carrier authority to be used on a basis supplemental to private carriage and, of course, as just mentioned, trip leasing to ICC-regulated carriers and singlesource leasing), private carriers have been encountering increasing difficulties at the state level. This is because of the high level of regulation of the trucking industry which still obtains in most of the states. For your information, 44 of the 50 states still regulate trucking operations rather heavily, certainly in sharp contrast to the greatly reduced regulation put into effect at the federal level.

This has caused severe complications for the nation's private carriers who, in exercising the various options that they have gained at the federal level, are running into substantial barriers in terms of the parallel exercise of such options at the state level for intrastate operations. For the most part private fleets are used on a combined or dual basis for both interstate and intrastate movements. So an operating privilege which exists for the private carrier at the federal level but does not exist in counterpart at the state level can frustrate severely the implementation by the private carrier of these options. I would like to give the Committee some examples of such frustration:

INTERCORPORATE HAULING

As you know, at the federal level private carriers may conduct without operating authority on a compensated basis intercorporate hauling for a 100% commonly-owned corporations. This has been adopted on a very widespread basis among 10,000 or more corporations who wish to benefit from compensated intercorporate hauling at the interstate level. However, many states on an intrastate basis regard compensated intercorporate hauling as regulable for-hire carriage, requiring the issuance of operating authority. Thus, a private carrier at the federal level can institute compensated intercorporate hauling with a mere notice to the ICC. However, at the state level, and in particular in the instance of dual trucking operations, that private carrier would have to acquire operating authority, perhaps as a contract carrier. This is costly and takes a great deal of time. Moreover, in some states, authority is very difficult to obtain. Paradoxically, even where obtained, the same private carrier operating the same vehicle with the same driver on a dual interstate and intrastate basis would be an exempt carrier at the federal level and a regulated carrier at the state level.

OPERATING AUTHORITY

For interstate operations, private carriers are able to obtain from the ICC with comparative ease upon the filing of an appropriate application supplemental common or contract carrier authority to serve other shippers. This greatly reduced empty backhauls and provides new service to unaffiliated shippers who require interstate for-hire carriage service. However, many states do not have the same ease of entry for the granting of common or contract carrier authority to private carriers as does the Interstate Commerce Commisson.

In some situations, private carriers cannot get parallel supplemental operating authority as common or contract carriers at the state level to that which they have already obtained at the federal level. In still other situations, the cost of that authority, the time delay and the controversy engendered discourages privare carriers from even attempting to get such authority. This means that the shippers they serve on a supplemental basis are shippers who have only interstate transportation requirements. If other shippers or in fact the same shippers who get interstate service want intrastate service, they cannot get it. This compromises the efficiency that would otherwise be attained by the private carrier through the obtaining of supplemental operating authority, such efficiency being the elimination (1) of an otherwise empty outhaul or backhaul and (2) of the waste of fuel moving an empty vehicle.

EXEMPT COMMODITIES

At the federal level private carriers are entitled to carry exempt agricultural commodities. The ICC has added to this list in recent years. This facilitates the economies of private carriage operations by permitting private carriers to haul these exempt agricultural commodities. Such hauling also benefits the nation's farmers. However, in many states, there is no comparable exempt commodities list for the intrastate movement of the identical agricultural commodities. So a private carrier that obtains an exempt agricultural commodities load must move it on an interstate basis in most cases. If he wanted to move it on an intrastate basis, he probably would find in many states that the commodities are regulated and that he would need at least contract carrier authority from that state regulatory body in order to effectuate the same movement on an intrastate basis as is otherwise exempt on an interstate basis by virtue of the ICCs exempt commodity list.

TRIP LEASING

On the matter of trip leasing, a previously described, private carrier may trip lease their trucks and drivers to ICC-regulated carriers. This is interstate trip leasing. However, many states prohibit trip leasing by private carriers on an intrastate basis to locally regulated for-hire carriers. Some of these locally regulated carriers also hold ICC authority. Thus, if such is the case, these dual authority carriers, local and federal, could not use any trip leased vehicle for intrastate movements. They would be confined to using the trip leased vehicle and driver obtained from a private carrier for interstate purposes.

SINGLE-SOURCE LEASING

As far as single-source leasing of trucks and drivers by provate carries is concerned, this is now, as has been indicated, a valid private carrier option at the federal level. However, many states regard single-source leasing as the provision of a regulated for-hire carriage transportation service to a shipper. It is not regarded at the intrastate level by these states as lawful private carriage conducted by a lesses who obtains trucks and drivers from the single-source such as an owner-operator.

This inevitably gives rise to a question of the single source being able to obtain appropriate operating authority from the state regulatory body. That aside, it results in an incongruity for the dual use fleets operated by the nation's shippers. At the federal level, the shipper is a lawful private carrier even though it obtains trucks and drivers from a single source. In some states, for intrastate operations, the same shipper would not be regarded as a private carrier, but merely as a shipper obtaining a for-hire carriage service, subject to operating authority requirements, from a single source. Given the extensive dual use of such fleets, these inconsistent regulatory classifications at the state and federal levels drastically frustrate the ability of shippers to access single-source leasing.

It is not sufficient to have this right at the federal level. It must be paralleled at the state level. Attached are the results of a recent survey conducted by the Private Carrier Conference of state regulatory bodies with respect to the single-source issue. Some states permit it; some do not. See Appendix A.

NEED FOR FEDERAL PREEMPTION

Clearly, the Congress eventually is going to have to deal with these problems. We do not see how the Congress can allow reforms enacted as a result of the Motor Carrier Act of 1980 that have benefitted private carriers at the interstate level to be frustrated at the intrastate level.

As a matter of fact, September 10, 1984, the Coalition on Intrastate Private Carrier Options met in Washington to address the need for federal preemption of inconsistent state regulation. Numerous trade associations and other interested parties are members of the Coalition; the Private Carrier Conference is a member of this Coalition. It is expected that several other members will address the Congress about the need for federal preemption or some other alternative such as the withholding of highway funds. Unless those states with economic regulation adversely affecting private carriage modify such regulations so as to permit private carriers, particularly those who have fleets used on a dual basis, to exercise the same option flexibility at both the state and federal levels, the full benefits of the Motor Carrier Act of 1980 as implemented by the ICC will be frustrated.

Please note that we are referring to the dual use of the same fleet for interstate and intrastate movements. As we view it, therefore, the states that will not go along with the same definition of private carriage or who will not go along with the implementation by private carriers of the same options as have become available at the federal level are unreasonably burdening the efficient movement of traffic by private carriers in interstate commerce.

The occurs frequently because these private carriers in many cases foresake the exercise of these federal options where they would not be able to effectuate on a parallel and needed basis with the same truck and driver (certainly the same fleet) the identical kind of transportation service on an intrastate basis. It is becoming clear, therefore, that valuable as the federal options are, their full utilization depends on complementary and consistent regulatory freedoms at the state level in those states where such options are not recognized or are frustrated by the "heavy hand" of regulation.

I appreciate this comes under the heading of "states rights", with all its political sensitivity. Nevertheless, I think the Congress is going to have to be quite forthright about acknowledging these problems and adamant about resolving them.

Such resolution could take the form of a preemption of inconsistent state economic regulatory jurisdiction over such dual private fleet operations. Otherwise, private carriers will be left to the mercies of individual states. PCC thinks that the Congress has the power to preempt inconsistent and burdensome state economic regulation over trucking, particularly that regulation which adversely affects private carriers in the instances just recounted, and that such preemption would be completely consistent with basic constitutional law principles and past case precedent.

As a matter of fact, the Conference understands that legislation drawn by the Department of Transportation, and which now is being temporarily held up by the White House pending the 1984 presidential election, would establish a study commission to review the problems just mentioned. However, as we understand it, such legislation would stop short of recommending outright preemption. The Private Carrier Conference recommends outright preemption as the only workable, practicable solution to these problems. Otherwise, private carriers will have to confront the frustration of these federally-approved options at the state level on a state-by-state, case-by-case basis. This will result in incredible delays, great expense and the continued inability of many private carriers to draw down on the federal options that were designed to improve productivity and fuel utilization. This does the economy of the country no good and obviously is completely undersirable. This is why the Private Carrier Conference earnestly solicits the help of the Congress in addressing this important and growing predicament.

Thank you for the opportunity to present this testimony.

APPENDIX A.—INTRASTATE SINGLE SOURCE LEASING

State	Permitted	Not permitted	Undecided
Alabama		X	
Alaska		[1] X	
Arizona	X		
Arkansas	X		
California		X	

APPENDIX A.—INTRASTATE SINGLE SOURCE LEASING—Continued

State	Permitted	Not permitted	Undecided
Colorado		x	
Connecticut			x
Delaware	x		
Florida	x		
Georgia		x	
Idaho	x		
Illinois		x	
Indiana			x
Iowa		x	
Kansas	x		
Kentucky		x	
Louisiana	[2] x		
Maine		x	
Maryland		[3] x	
Massachusetts		x	
Michigan—mixed loads permitted; purely intrastate movement prohibited			
Minnesota		x	
Mississippi		x	
Missouri			x
Montana	x		
Nebraska	x		
Nevada	[4] x		
New Hampshire	[5] x		
New Jersey	x		
New Mexico		x	
New York		[6] x	
North Carolina		x	
North Dakota	x		
Ohio		x	
Oklahoma		x	
Oregon		[4] x	
Pennsylvania		x	
Rhode Island		x	
South Carolina		x	
South Dakota	x		
Tennessee	x		
Texas		x	
Utah		[7] x	
Vermont	x		
Virginia	[8] x		
Washington	x		
West Virginia	[9] x		
~~Wisconsin~~—mixed loads permited; purely intrastate movement prohibited [10]			
Wyoming	x		

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[1] Alaska state law currently prohibits single-source leasing of drivers and vehicles by private carriers on an intrastate basis. However, the Alaksa Transportation Commission may be sunsetted following the November elections. An initiative will be placed on the ballot at that time to determine whether such action should be taken.

[2] Director of Transportation in a letter dated May 15, 1984 stated that intrastate single-source leasing by private carriers is illegal. In an earlier letter dated February 27, 1984, the Director had stated the issue would be decided on a case by case basis.

[3] The Maryland PSC will recognize as a legal private carriage operation the single-source leasing of a driver and a vehicle ***only*** when the freight involved is to be delivered for *one* consignor to *one* consignee and no return load is to be carried on the trip for any other consignor or consignee. It must be understood that Maryland construes a single-source lessor as one who provides a for-hire carriage service. However, if the single-source lessee utilizes the leased driver and vehicle to deliver a load to but one consignee, the Maryland PSC will exempt the single-source lessor from the requirement of obtaining an operating permit.

Maryland also takes the position that the conduct of the following operations constitutes private carriage: (1) Use of one's directly employed drivers and personally owned vehicles to deliver one's goods to its customers or to pick-up one's raw materials; (2) Use of leased drivers and personally owned vehicles to accomplish the movements noted in Item (1); and (3)(Use of leased equipment and directly employed drivers to accomplish the movements in Item (1).

Scenarios (1), (2), and (3) will constitute private carriage regardless of the number of consignees to be served on any one shipment.

Lastly, Maryland takes the position that lease of drivers and vehicles from separate sources constitutes for-hire carriage activity by the lessor, but will exempt that activity from a permit requirement as long as the lessee serve but one consignee per shipment.

[4] In order for the leasing arrangement to be considered legal, the lease must contain a provision which states that during the period of the lease, the driver must be the employee of the shipper. A lessor that enters into a single source lease that does not provide for the employer-employee relationship with the shipper will be subject to complaint for providing for-hire transportation service without authority.

[5] The written response from the New Hampshire PUC did not address the question asked of it. A follow-up phone call revealed that New Hampshire has no statutes, regulation or case law addressing the issue of single-source leasing by private carriers. On the basis of the telephone conversation, it is our belief that single-source leasing by private carriers is a legally defensible option available to private carriers in that state.

[6] In the opinion of the Director of the Regulations Division, single-source leasing as described by the 11th Circuit, and confirmed by the U.S. Supreme Court, would not be lawful private carriage under current state law. However, nothing in the statutory provisions quoted in the PUC's letter suggest that private carrier single-source leasing is illegal.

[7] The response from the Utah PSC was very confusing. A follow-up telephone conference with Jack Olinger of the Regulated Carrier Section seems to confirm that Utah will not recognize single-source leasing by private carriers. Rather it will consider such arrangements as for-hire transportation.

[8] The written response from the Assistant General Counsel of the Virginia State Corporation Commission indicated that the issue may be decided on a case-by-case basis. During a fellow-up telephone conversation with the Assistant General Counsel, we were advised that the Commission recognizes single-source leasing if the term of the lease is not less than 30 days and if the lessee assumes the burdens outlined in U.S. v. Drum, 368 U.S. 370 (1962). The Commission takes this position despite the fact that Rule 3 of its Rules and Regulations Governing the Operation of Motor Vehicles Under Lease states that a private carrier must either employ its drivers directly or lease the drivers from a source separate from the vehicle lessor.

According to the Assistant General Counsel, the Commission is not concerned with single-source leasing arrangements by private carriers as long as the term of the lease is for more than 30 days. The Commission rules and regulations governing leasing arrangements are aimed at, and strictly applied to, leasing arrangements existing for periods of less than 30 days, i.e., trip leasing.

[9] By letter dated February 23, 1984, the Director of the Motor Carrier Division of the West Virginia Public Service Commission stated that in his opinion the PSC would permit single-source leasing by private carriers on an intrastate basis. By letter dated May 7, 1984, he reversed his earlier position and stated that such arrangements were prohibited by the Code of West Virginia.

[10] A letter dated February 23, 1984, from the Tariff Bureau, Transportation Commission suggested that single-source leasing by private carriers on an intrastate basis would be permitted under the Transportation Commission's regulations. A letter dated May 10, 1984, from the Chief of Reciprocity and Permits, Department of Transportation, stated that single-source leasing would be prohibited under the Wisconsin Statute but permitted under the Transportation Commission's regulations.

During a follow-up telephone conversation on June 14, 1984, we were advised by the Deputy Commissioner of Transportation that single-source leasing by a private carrier on a purely intrastate movement is prohibited; however, in a mixed operation where the intrastate movement is an integral part of the interstate movement, single-source leasing will be permitted.

(June 27, 1984.)

The CHAIRMAN. Thank you, Mr. Cody.

Tim, elaborate a little more on what your business does, because I am not sure in your statement you fully explained what you do.

Mr. LEE. Mr. Chairman, we are an ICC-licensed, regulated property broker. We are what is typically known as a "third party". Prior to the enactment of the 1980 Motor Carrier Reform Act of 1980, there were some 50, 60 licensed property brokers in the United States. Today, there are over some 3,000.

We obtained our license in late 1980. We were, I believe, the first ICC-licensed broker to be recognized by the ICC as a bonafide supporting shipper. Most of our business is predicated on movements that we arrange through contract carriers.

The CHAIRMAN. You own no trucks.

Mr. LEE. We own no trucks.

The CHAIRMAN. You own no freight.

Mr. LEE. That is correct.

The CHAIRMAN. Now, what do you do? Somebody calls you; what do you put together? How does it work?

Mr. LEE. We arrange the transportation for our shipper base. The traffic we arrange transportation for does not necessarily move via the mode of motor carrier. Predominantly, however, most of our traffic is routed motor carrier.

I was hoping that perhaps you would ask me what types of carriers we utilize.

The CHAIRMAN. Go ahead.

Mr. LEE. Typically, I think the broker is stereotyped as using primarily owner-operators and independents. We do use a number of owner-operators and have supported them for ICC contract carrier authority. Many of these individuals have been operating for STS profitably for the last 3 or 4 years.

In addition, we have supported a number of private fleets. We have supported Crown Zellerbach's private fleet. John Archer may speak more on that today. We have also supported Johns-Manville's private fleet among many others. We arrange backhauls for these carriers that have, under past regulation, been unable to move back to their headhaul origin profitably.

The CHAIRMAN. You mean Johns-Manville or Crown Z calls you up and they say, Tim, we've got a truck in Santa Rosa, and we would like to bring it back with something; have you got any freight down there we can put in it and bring back?

Mr. LEE. It is much more technical than that, but basically that is the concept, yes. We operate a full service dispatch center. We maintain very precise control of all the equipment we arrange traffic for. We make the scheduling appointment, so on, so forth.

As compared to a conventional carrier, we are able to more appropriately and efficiently utilize the resource that can address the problem at a more economical rate and better service level.

The CHAIRMAN. Give me again the figures. You started in 1980 with three employees, of which I assume two were you and your partner.

Mr. LEE. That is correct. In 1980, we did right at three-quarters of a million dollars in gross sales; $3.2 in 1981; $6.4 in 1982; $11 in 1983. We will do just about $20 million this year, and we have nothing but high expectations for next year.

The CHAIRMAN. How many employees now?

Mr. LEE. We now have about 45 full-time employees.

The CHAIRMAN. And could you have done this, to the extent that you have done it, had we not passed the act in 1980?

Mr. LEE. Absolutely not. Absolutely not.

The CHAIRMAN. Do you think we should pass preemption roughly similar to what we have done with the buses, which for all practical purposes, is total preemption?

Mr. LEE. Absolutely. My own home State, your home State, Senator, is one of the more heavily regulated States. The Oregon PUC has as of recent been working with STS in particular. However, we have a long way to go.

In answer to your question directly, though, yes, sir, I do believe that should be the case.

The CHAIRMAN. Now, assuming we preempt, are there any remaining ICC regulations that should continue? Or do we get rid of them all? What do you suggest?

Mr. LEE. I am a proponent of regulating safety and compliance and the proper tax payment schedules.

The CHAIRMAN. And that is it?

Mr. LEE. That's it.

The CHAIRMAN. Let me ask the same question of Mr. Ashford. Assuming we have preemption—and you have all stated you want preemption—I don't sense there is much difference of opinion among you there.

Mr. ASHFORD. Not much.

The CHAIRMAN. What would you keep federally at the ICC level if we preempt?

Mr. ASHFORD. Leaseway Transportation recognizes the need for safety regulations and some uniformity in that area. There are a couple of bills, as you know, Senator, that are being heard at this present time, in various stages and in various committees, on maintenance, safety issues, and we feel that those issues should still remain the property of the Federal bureaucracy.

The CHAIRMAN. Let me ask this question of all of you. Almost everybody in the trucking industry, assuming that there is going to be any further deregulation, or even if there isn't, wants preemption. Most of the shippers have, by and large, whether they are large shippers or small shippers, have supported deregulation and my hunch would be that they would just as soon have preemption.

That means that the only people left who want to keep what they have would be the National Association of Regulatory Utility Commissioners who will want to keep it from the standpoint of wanting to keep it. And yet, my experience with public utility commissions has also been that while they are in nobody's pocket, if the entire industry that they regulate says we don't want you to regulate us anymore, they might bow to that.

Do you think—I will address this to all of you—you could collectively bring pressure on that particular association to get them to go along with preemption?

We will start with Mr. Ashford.

Mr. ASHFORD. I think since we have all witnessed the various changes in the industry since 1980 in the act, also changes for the various State PUCO's, I think it would be probably reasonable to make such a suggestion to them, to seek their support. I think they have faced a lot of difficult challenges also. I think they may be able to look toward something like that.

The CHAIRMAN. This may or may not be able to be done, with or without them. But if they were for it, clearly, it is going to zip through.

Mr. ASHFORD. Most definitely.

The CHAIRMAN. Gentlemen, any comment different than that?

Mr. SAREFIELD. No. I think they are the obvious first target for pressure on our part.

The CHAIRMAN. They are, because there is nobody else, I think, who would defend the present system. There is no public demand for no preemption. I can assure you, when I go to speak to the Rotary, the first question I get is don't preempt State interstate commerce regulation. It just doesn't come up very often.

Gentlemen, I do not have any other questions. Again, it is a good cross section, and I am fully aware of the cross currents within the industry in the past, and the situation of the Private Carrier Conference within the ATA. I understand they come from a slightly different background and a slightly different viewpoint. In my mind it is clear we are going further down the road, eventually, on deregulation; probably on preemption, although preemption of State taxation will be a much more difficult chore than preemption of State regulation.

When you get taxation, you are then treading on very sensitive toes. It is one thing to say to the local PUC comissioner, you can no longer burden this applicant or burden this trucking company with the argument they are intrastate when they are not. That is not a money issue. Taxation is. And, of course, all groups, yourselves included, don't want to be taxed as much, and if you are not taxed as much, somebody has to be taxed more. And then when we say to the States, you cannot tax them at all, or you can only tax them in the following fashion, which may result in a loss of money to the States, they will be very, very sensitive about it. Then it isn't just going to be the PUC commissioners. Then it is going to be the Governors and their State legislative leaders and everybody else that are sensitive about the amount of money involved.

Mr. ASHFORD. Mr. Chairman, if I may, one more comment. As I mentioned before, there are a couple of bills now that have been introduced to this session dealing with uniformity for State registration requirements procedures, and I think bills like that will be a great help to going toward the solution of the problems.

One problem with taxation from State to State is not just the money total from State to State varies, but the way they look at formulas to garner that money. And a lot of them just do not make any sense, and cost as much to administer them as the taxes the collect.

The CHAIRMAN. One thing that did happen, and we did not foresee it when we passed the act, we did not think the States would get back into regulation as much as they have. And, of course, it is ironic; all of your members want preemption, but with a few exceptions, it is all of your members that have gone to those PUC's and asked for some kind of particular regulation in the State, hoping to give them a leg up over somebody else that was interstate. So really, your members are coming from two sides. So long as the law lets them do that, they are going to go and do it.

I hope at least they will come and say, yes, so long as that is the law I am going to do it, but the law ought to be changed.

Gentlemen, thank you very much. Tim, I will see you later.

We will conclude today with Mr. John Archer, the director of logistics for Crown Zellerbach; Mr. Jim Edler, the chairman of the Small Shipments Transportation Committee of the National Industrial Transportation League, and a man I served for years with on the Motor Carrier Ratemaking Study Commission; and Mr. Richard Velten, the first vice president of the National Small Shipment Traffic Conference, and president of the Drug and Toilet Preparation Traffic Conference.

STATEMENTS OF JOHN J. ARCHER, DIRECTOR OF LOGISTICS, CROWN ZELLERBACH CORP.; JAMES EDLER, CHAIRMAN, SMALL SHIPMENTS TRANSPORTATION COMMITTEE, NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE; AND RICHARD VELTEN, FIRST VICE PRESIDENT, NATIONAL SMALL SHIPMENTS TRAFFIC CONFERENCE, AND PRESIDENT, DRUG AND TOILET PREPARATION TRAFFIC CONFERENCE, ACCOMPANIED BY DANIEL SWEENEY, COUNSEL

Mr. ARCHER. Thank you, Mr. Chairman. Thank you very much for the invitation to speak to you today. My name is John Archer. I am director of logistics for Crown Zellerbach Corp. Our headquarters are in San Francisco. Crown Zellerbach is a fully integrated forest products company. We are also in packaging and we are in distribution. We are a national company. We employ about 20,000 people and our freight expense in 1983 was approximately $240 million.

At Crown Zellerbach, we believe the Motor Carrier Act of 1980 has had the effect of improving the strength, efficiency, competitiveness and service of the motor carrier industry throughout the country.

In addition to this, the resurgent motor carrier industry has placed great competitive pressure on railroads to improve their operations, so there are collateral effects rippling throughout the transportation industry.

Since 1980, we have had a dramatic change in our transportation environment. Motor carriers have maintained their position as a predominant mode of transportation for Crown Zellerbach's products through very cost-competitive rates and superior service levels. Motor carriers are competitive at distances previously limited to rail transportation, in the range of 400 to 1,000 miles. In fact, some regular truck shipments range up to 1,700 miles.

These results represent a dramatic change for pulp paper and forest products shippers like Crown Zellerbach whose principal needs are truckload or carload oriented. Even in the area of less truckload shipments, service has improved considerably.

Mr. Chairman, before deregulation, your less-than-truckload shipments were controlled by what is called a regular route motor carrier who used local terminals to pick up and deliver the freight. The shipment was unloaded from a local truck, moved across the motor carrier docks to a line-haul truck, moved to another terminal, moved across the dock again to a local delivery truck, and then delivered to our customers. This amounted to three trucks and two product handlings.

Today, we combine three, four, or five orders into a single full truckload. These shipments are trucked directly to the customer in the same vehicle that they are loaded in. We receive truckload service, in effect, at costs that are substantially less than the typical less-than-truckload charge of the pre-1980 type of regular route common carrier.

Therefore, our pooling system has resulted in lower cost and better service to our customers. The new irregular route carrier specializing in these services was not very widely available prior to 1980.

I would like to share with you the bottom line of all of this. What we have done is tried to show some statistics which are in attachments to our statement that show the delivery expense index for our pulp and paper division, which is the largest division in terms of freight expense at Crown Zellerbach.

The index is presented and the numbers are shown on exhibit 1. In the period from 1974 through 1981, Crown Zellerbach's pulp and paper freight expense rose to 213 on the index, more than doubling in 8 years. Once changes under the Motor Carrier Act of 1980 began to take effect, the index slowed considerably between 1981 and 1982 and then took a dramatic drop of 14 index points thereafter.

If you deflate the index even by the wholesale price deflator, you will see that our costs today are less than they were in 1974 in real terms. This year, this final year of the 14 index point drop, is the first overall reduction in freight costs that I can remember in my 28 years in the transportation business. Obviously, changes following the Motor Carrier Act of 1980 are squeezing the huge amount of waste from the system. These savings are being passed along to the consumer, and the public benefits are enormous.

You might wonder how these cost reductions were possible. First, we have greater freedom of entry. That brings in truckers with new ideas, and that is an untold change from the past.

Second, the ICC has discontinued some of the circuitous routings in their operating authorities. That has led to more fuel and labor efficiency and faster service.

And third, as Tim told you previously, we have substantial reductions in empty backhauls, and I cannot overemphasize how important that is. There is a growing group of entrepreneurs like these freight brokers who are matching shipment loads with empty equipment to reduce empty mileage charges.

Just in summary, Mr. Chairman, we believe that you should continue the efforts toward freer entry. We also believe that anything that you can do to encourage full loads in both directions, like the freight brokers and like the leasing of equipment between carriers or between private carriers and motor carriers, should be continued. It is really what has led to these reductions.

Thank you.

[The statement follows:]

STATEMENT OF JOHN J. ARCHER, DIRECTOR OF LOGISTICS, CROWN ZELLERBACH CORP.

My name is John J. Archer. I am Director of Logistics for Crown Zellerbach Corporation whose headquarters are located in San Francisco, California. Crown Zellerbach is a fully integrated forest products company engaged in the manufacture and distribution of woodpulp, paper, paperboard, logs, lumber, plywood, poles, corrugated containers and flexible packaging. Our pulp, paper and wood products mills are located in the states of California, Louisiana, Mississippi, New York, Oregon, and Washington. In addition we have film products, paper and paperboard converting plants and distribution centers located throughout the country.

Crown Zellerbach's sales in 1983 were $2.7 billion. We employ about 20,000 people. Crown Zellerbach's total transportation expense in 1983 was $240 million. Crown Zellerbach utilize rail, truck, water, and air transportation to disribute products.

At Crown Zellerbach we believe the Motor Carrier Act of 1980 has had the effect of improving the strength, efficiency, competitiveness and service of the motor carrier indsuty throughout the United States. In addition the resurging motor carrier industry has placed great competitive pressure on railroads to improve their operations, so there are collateral effects rippling throughout the transportation industry. Crown Zellerbach has consistently supported deregualtion of transportation and feels more strongly about this policy, now that actual results in the marketplace have demonstrated the benefits of the legislative and adminsitative actions taken by the Congress and the Interstate Commerce Commission.

Since 1980 we have seen a dramatic change in our transportation environment. Motor carriers have maintained their position as the predominant mode of transportation for Crown Zellerbach's products through very cost competitive rates and superior service levels. Motor carriers are competitive at distances previously limited to rail movements in a range of from 400 to 1,000 miles. Some regular truck shipments range up to 1,700 miles. These results represent a dramatic change for pulp, paper and forest products shippers like Crown Zellerbach, whose principal needs are truckload or carload oriented.

Before deregulation less than full truckload shipments were controlled by regular motor carriers who use local terminals to pick-up and deliver. A shipment was unloaded from a local truck, moved across the motor carrier docks to a line-haul truck and then to a delivery truck. This amounted to three trucks and two product handlings. Today we combine three or four orders into a single full truck. These shipments are trucked directly to the customer in the same vehicle. We receive truckload service at costs that are substantially less than the typical less-than-truckload charge of the pre-1980 type common carrier. Therefore, our pooling system with direct shipment of small orders costs less and improves service. The new irregular route carrier specializing in these services was not widely available prior to 1980.

Many carriers have approached us to support applications for new or expanded authority. These new entrepreneurs have low overhead and efficient operating practices. They are not burdened with the large terminals and sales staff that were characteristic of the pre-1980 regular route motor common carrier. Often they utilize owner-operators whose compensation is related directly to operating miles or revenue, thereby producing a very efficient and cost effective operation.

I would like to share with you the bottom line result of our efforts to bring needed change to the transportation industry. My statistics will include The Delivery Expense Index for our Pulp and Paper Division which has the largest freight expense at Crown Zellerbach. The Index is presented for you with the Index table shown on Exhibit 1. In the period from 1974 through 1981 Crown Zellerbach's Pulp and Paper freight expense rose to 213 on the Index, more than doubling in eight years. Once changes under the Motor Carrier Act of 1980 began to take effect, the Index slowed considerably between 1981 and 1982, and then took a dramatic drop in 1983 of 14 index points. If you deflate the Index by the wholesale price deflator, you see our real costs in 1983 are less than they were in 1974.

This is the first actual overall reduction in fright cost that I can remember in 28 years in the transportation business. Obviously changes following the Motor Carrier Act of 1980 are squeezing a huge amount of waste from the system. Thse savings are passed along to the consumer. The public benefits are enormous.

Now that you have seen the big picture, I will share some specific examples from different regions of the country.

Before 1980 we were paying $400/truckload to ship waste paper from New York City to So. Glen Falls, NY. Today we pay $250, a reduction of 38 percent.

At Carthage, New York, we shipped paper towels and tissue products to Chicago at $1,100/truckload before 1980. Today we pay $725, a reduction of 34 percent.

Before 1980 we were trucking from Portland, Oregon to Seattle, Washington for $400/trailer. Today our costs are $375, a 6 percent reduction.

From Port Angeles, Washington to Portland, Oregon the cost was $440/load and today it is down to $375/load, a 14 percent reduction.

From St. Francisville, Louisiana to Kansas City, Missouri, the cost was $572 in 1980. Today we pay $424, a 26 percent reduction.

You might wonder how some of these cost reductions were possible. First we have greater freedom of entry which brings in new truckers with new ideas. Of course many inefficient motor carriers will fail in this competitive environment. Before 1980, the system protected these inefficient operators; now competition will force them to improve or close their doors. More freedom of entry may be an important element in bringing additional benefits.

Second, the discontinuation of the requirement that certain carriers operate via circuitous routes which were eliminated by ICC rulings have resulted in more direct shipments, fuel and labor efficiency, and faster service.

Third, there have been substantial elimination of empty backhauls. There is a growing group of entrepreneurs who are matching shipment loads with empty equipment to reduce empty mileage. This single practice alone has led to benefits in terms of cost reductions and better service. Round trip balancing is an important element of any transportation system. The advent of property brokers and liberalized regulation governing cross leasing of equipment have been of great economic value to truckers and shippers.

In summary Crown Zellerbach, the trucking industry, and the public have benefitted greatly from the deregulation thrust of the Motor Carrier Act of 1980. The marketplace is an efficient regulator. We ask the Congress and the Interstate Commerce Commission to continue their path forward with further deregulation in the areas of greater freedom of entry, and encouraging policies that eliminate empty mileage, e.g. property brokers, and freedom to lease equipment between private carriers and motor carriers.

EXHIBIT 1.—PULP AND PAPER DELIVERY EXPENSE

	Index actual	Index deflated [1]
1974	100	100
1975	117	105
1976	123	104
1977	133	105
1978	143	105
1979	157	102
1980	186	104

EXHIBIT 1.—PULP AND PAPER DELIVERY EXPENSE—Continued

	Index actual	Index deflated[1]
1981	213	108
1982	217	107
1983	203	99

[1] Deflated index using wholesale price index.

The CHAIRMAN. Thank you. You make a very compelling case. Jim.

Mr. EDLER. Good morning, Mr. Chairman. As you know only too well, my name is James H. Edler. I am corporate director of traffic for American Greetings Corp. in Cleveland, OH, and chairman of the Small Shipments Transportation Committee of the National Industrial Transportation League.

After almost 4 years experience with this legislation, our members generally are well satisfied with the current regulatory environment and the flexibility it affords the interstate trucking industry in meeting shippers' changing market needs. They believe that this flexibility enabled both themselves and the industry to better withstand the past economic recession and to more fully participate in the current recovery.

Booze, Allen & Hamilton, who recently surveyed the trucking industry, found that today it is the quality of management and the corporate strategy chosen, not the Motor Carrier Act, which determines whether a carrier is a winner or a loser.

The congressional compromise forged in 1980 recognized that further changes to the regulatory structure would be needed based upon experiences gained through allowing a greater play of market forces. Based upon this experience, our members believe that it is now time to begin to take the next steps to complete this transition to a truly market disciplined trucking industry.

Our members believe that the two most important steps in this transition involve further reform of the standards for operating rights authority and elimination of the industry's antitrust immunity for collective ratemaking activities. These reforms will make the largest strides in assuring that the competitive objectives of regulatory reform are realized.

With respect to operating rights, the League would urge that a single fit, willing, and able standard be used in determining whether to grant an applicant operating rights. This standard's safety and financial fitness requirements should act as an effective and easily administered test to assure that applicants have the necessary qualifications to maintain the industry's high level of professional integrity.

With respect to antitrust immunity, the past 4 years have revolutionized the majority of shippers' thinking on this issue. As one of the key supporters of the Reed-Bulwinkle Act, which established this immunity, the League in 1980 somewhat reluctantly supported the elimination of antitrust immunity for single line rates. Since that time, the freer regulatory environment and the Commission's failure to use its rate review powers to protect against abuses of collective ratemaking have led League members to call for the abolition of this immunity for the trucking industry.

This policy reversal reflects two trends. First, shippers have gained confidence in allowing the marketplace to determine the types of available price and service options. Freed from the restraints inherent in rate bureau and other regulatory proceedings, shippers and carriers are working together to more effectively meet their transportation needs.

Second, shippers are disappointed in the developments which have occurred in those instances where the ratemaking process has not substantially changed since 1980. These developments primarily affect the less-than-truckload sector of the industry. LTL shippers have been frustrated in their attempts to secure the types of rate and service options enjoyed by truckload shippers, as well as in their attempts to have the ICC invoke its rate review powers to check what they believe to be abuses of carriers' collective ratemaking authority.

It is this frustration which led to the original request in Ex Parte No. MC-172. The League would note that it is disappointed in the ICC's decision to defer action on this important proceeding. We hope that the Commerce, Science and Transportation Committee will review the ICC hearing record, and provide the necessary leadership to assure that interstate trucking rates are competitively, not collectively, set.

In calling for an end to antitrust immunity, the League would note that its request pertains to setting of specific rates or rate levels. However, there are related private sector activities where shipper/carrier cooperation contributes to the overall effectiveness of the industry. These activities include classification, packaging rules, and other types of standard setting, such as electronic data interchange and claims and liability procedures for loss and damage.

In evaluating what other steps should be taken to complete the transition to a market disciplined trucking industry, League members are reviewing a variety of issues, including the need for tariff filing requirements and the need for some sort of Federal preemption provisions addressing State regulation of interstate trucking operations.

The removal of Federal obstacles to a truly competitive trucking industry makes little sense to our members if we allow them to be replaced by a conflicting patchwork of State laws. Our members are deeply concerned that if this issue is not addressed, we may soon be faced with the situation that mirrors the problems created by a wide variety of State laws on registration and taxation requirements for trucking operations. We believe that Congress must speak clearly as to whether it intends the marketplace or the State legislatures to be the regulator of interstate trucking services.

We thank you for this opportunity to present the views of the shipper community and offer our continuing cooperation to you and your staff to realize our mutual goal of an efficient and effective interstate trucking industry.

Thank you.

[The statement follows:]

STATEMENT ON BEHALF OF THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

Chairman Packwood, Members of the Committee: My name is James H. Edler. I am corporate director of traffic for American Greetings Corporation, Cleveland, Ohio, and chairman of the Small Shipments Transportation Committee of The National Industrial Transportation League.

The National Industrial Transportation League is a voluntary organization of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with transportation services of all modes. It is the only nationwide organization representing shippers of all sizes and commodity lines using all modes of transportation to move their goods in interstate and international commerce. Our members, directly or indirectly, are responsible for the routing of about 80 percent of the country's commercial freight.

The League is dedicated to fostering an economical and efficient national transportation system meeting the needs of commerce and national defense. To arrive at the policies and positions reflecting our broad range of interests, League members, at least annually, debate and vote on pertinent transportation issues. Throughout our more than 75 year history, the League frequently has been the spokesman for business and industry on transportation matters.

The League believes that effective competition is the best regulator of transportation services, and is a strong supporter of reforming the federal economic regulations governing the interstate trucking industry. We were active in seeking enactment of the Motor Carrier Act of 1980, and continue to participate in its administration by the Interstate Commerce Commission.

After almost four year's experience with this legislation, our members generally are well satisfied with the current regulatory environment and the flexibility it affords the interstate trucking industry in meeting shippers' changing market needs. They believe that this flexibility enabled both themselves and the industry to better withstand the past economic recession, and to more fully participate in the current recovery.

We are pleased to note that the majority of the trucking industry continues to vigorously participate in the economic recovery. As evidenced in trade journals and annual reports, carriers continue to show net profit gains at record or near record levels.

According to Transport Topics, the tade journal for the interstate trucking industry, a comparision of the 12-month period ending March 1984 with that ending March 1893 shows that the 100 largest rate bureau trucking companies experienced the following: a 5.9 percent increse in tonnage; a 10.1 percent increase in revenues; a 95.9 percent increase in operating income; a 100.2 percent increse in net income; a favorable decline in operating ratio from 97.7 to 95.9; an increase in profit margin from 1.28 cents/revenue dollar to 2.33 cents/revenue dollar; and an increase in return on shareholders' equity from 6.69 percent to 12.37 percent.

Booz Allen & Hamilton, who prepared this report for the trucking industry, found that today, it is the quality of management and the corporate strategy chosen, not the Motor Carrier Act, which determines whether a carrier is a winner or loser.

The Congressional compromise forged in 1980 recognized that further changes to the federal regulatory structure would be needed based upon experiences gained through allowing a greater play of market forces. Based upon this experience, our members believe that it is now time to begin to take the next steps to complete this transition to a truly market-disciplined trucking industry.

Our members believe that the two most important steps in this transition involve further reform of the standards for operating rights authority and elimination of the industry's antitrust immunity for collective ratemaking activities. These reforms will make the largest strides in assuring that the competitive objectives of regulatory reform are realized.

With respect to operating rights, the League would urge that a single "fit, willing, and able" standard be used in determining whether to grant an applicant operating rights. This standard's safety and financial fitness requirements should act as an effective and easily administered test to assure that applicants have the necessary qualifications to maintain the industry's high level of professional integrity.

We believe that elimination of the "public convenience and necessity" standard should free the Interstate Commerce Commission from a paperwork burden that its chairman says leads to an inefficient allocation of resources, and contributes little to determining the safety and financial fitness of prospective interstate carriers.

With respect to antitrust immunity, the past four years have revolutionized the majority of shippers' thinking on this issue. As one of the key supporters of the Reed-Bulwinkle Act, which established this immunity in the late 1940s, the League in 1980 somewhat reluctantly supported the elimination of antitrust immunity for single-lane rates. Since that time, the freer regulatory environment and the Commission's failure to use its rate review powers to protect against abuses of collective ratemaking have led League members to call for the abolition of this immunity for the trucking industry.

Our members took this action last November when they overwhelmingly voted to reverse a more than 40 year old policy supporting antitrust immunity for the trucking industry. Based on this policy change, the League sought and obtained an expansion of the scope of Ex Parte No. MC-172, Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments. Originally, this proceeding contemplated eliminating antitrust immunity for collective ratemaking on shipments weighing less than 1,000 pounds. Prior to asking for the expansion, the League supported this partial exemption.

This policy reflects two trends. First, shippers have gained confidence in allowing the marketplace to determine the types of available price and service options. Freed from the restraints inherent in rate bureau and other regulatory proceedings, shippers and carriers are working together to more effectively meet their transportation needs. The efficiencies and innovations resulting from this process have, from a shipper's perspective, improved our national transportation system.

One example of these sorts of improvements is Roadway Express, Inc.'s new E-Z Rate system, which was developed outside of the rate bureau process. It is a national price list based on ZIP Codes and sliding rate scales. It is a simplified expression of prices that is easily used even by those with minimal transportation expertise.

Shippers are encouraged by these changes and now look forward to the time when the marketplace will be the sole arbiter of interstate trucking services. They fear that any return to a more regulated environment will seriously erode the progress that has been made, and will weaken, rather than strengthen, the interstate trucking industry.

Second, shippers are disappointed in the developments which have occurred in those instances where the ratemaking process has not substantially changed since 1980. These developments primarily affect the less-than-truckload sector of the industry. Because of the high capital costs associated with entry into LTL operations, these carriers have not had the same impetus to innovate as their truckload counterparts. LTL shippers have been frustrated in their attempts to secure the types of rate and service options enjoyed by truckload shippers as well as in their attempts to have the ICC invoke its rate review powers to check what they believe to be abuses of carriers' collective ratemaking authority.

This dichotomy between the two systems of ratemaking, free market and collective ratemaking, is highlighted by how each has treated inflation, declining fuel prices, and the productivity gains achieved through the Surface Transportation Assistance Act.

Between January, 1983 and August 1984, the inflation rate, based on the Consumers' Price Index, has been less 5 percent. Under the free market system, truckload rates have remained unchanged from January 1983 levels. This was possible because competition encouraged carriers to recognize the decline in fuel prices and to agressively use the STAA's productivity reforms.

Under the rate bureau system, collectively set minimum charge rates, which generally are used by small businesses and in less populated areas, have risen in excess of 14 percent. The increases assessed by the nine largest rate bureaus during this 19-month period, are as follows:

Central States Motor Freight Bureau, 15.7 percent.
Central & Southern Freight Traffic Association, 20.7 percent.
Eastern Central Motor Carrier Association, 28.4 percent.
Middle Atlantic Conference, 27.8 percent.
Middlewest Motor Freight Bureau, 18.9 percent.
New England Motor Rate Bureau, 14.5 percent.
Pacific Inland Tariff Bureau, 18.0 percent.
Rocky Mountain Motor Tariff Bureau, 18.2 percent.
Southern Motor Carrier Rate Conference, 22.9 percent.

In addition, these rate bureaus have not adjusted their rates, as have their free-market counterparts, to reflect declines in fuel prices and productivity gains made possible by the STAA. In fact, the rate bureaus' only response to the STAA has been to seek an additional rate increase to offset the increase in diesel fuel, which is a result of the realignment of the STAA's heavy vehicle use tax. Free-market carriers are not seeking any rate adjustment.

It is this difference in efficiency that led to the original request in Ex Parte No. MC-172. The league would note that it is disappointed in the ICC's decision to defer action on this important proceeding. We hope that the Commerce, Science and Transportation Committee will review the ICC hearing record, and provide the necessary leadership to assure that interstate trucking rates are competitively, not collectively, set.

From a shipper perspective, revitalizing ICC rate regulation only solves half the problem. More importantly, it ignores the larger policy issue of fostering effective competition within the LTL sector of the trucking industry. League members firmly believe that nothing short of an end to the industry's collective ratemaking activities will provide the types of stimuli necessary to assure that all segments of the trucking industry and shipping community have the opportunity to participate in the competitive environment envisioned by the 1980 Act.

In calling for an end to antitrust immunity, the League would note that its request pertains to the setting of specific rates and/or rate levels. However, there are related private sector activities where shipper/carrer cooperation contributes to the industry's overall effectiveness. These activities include classification, packaging rules, and other types of standard setting such as electronic data interchange, and claims and liability procedures for loss and damage.

While we are not certain that these important cooperative endeavors need antitrust immunity, we do believe that any additional deregulation legislation should assure that these activities continue. even if it means according them some form of protection from the antitrust laws.

In evaluating what other steps should be taken to complete the transition to a market disciplined trucking industry, League members are reviewing a variety of issues including the need for tariff filing requirements, and the need for some sort of federal preemption provisions addressing state regulation of interstate trucking operations.

With respect to tariff filing requirements, the League supported the ICC rulemaking ending tariff filing requirements for contract carriage operations. This change has been assimilated into the marketplace with minimal disruption to the shipping community. Based on the success of this reform, shippers are now questioning why this requirement should be retained for common carriage operations.

While we believe that shippers should have reasonable access to tariffs and other price lists, our members are discussing why the Commission should be mandated as the central repository for this information. If it is determined that the benefits of increased competitive flexibility outweight other considerations, the League may well ask that this change be pursued.

With respect to federal preemption, League members are deeply concerned about the recent flurry of the state initiatives which threaten to seriously erode the benefits created by the 1980 reform law. At present, the states of California, Georgia, Illinois, Kentucky, Tennessee, and Virginia are considering interstate regulatory plans that substantially conflict with the procompeitive goals of the Motor Carrier Act.

The removal of the federal obstacles to a truly competitive trucking industry makes little sense to our members, if we allow them to be replaced by a conflicting patchwork of state laws. Our members are deeply concerned that if this issue is not addressed, we soon may be faced with a situation that mirrors the problems created by the wide variety of state laws on registration and taxation requirements for trucking operations. We believe that Congress must speak clearly as to whether it intends the marketplace or the state legislatures to be the regulator of interstate trucking services.

In conclusion, the League is generally pleased by the changes which have occurred over the past four years. We believe that these changes have resulted in a more efficient and innovative interstate trucking industry that is better able to meet the nation's commercial needs.

Shippers believe that we now should start to complete the reform process begun by this historic legislation. In doing so, particular attention should be paid to further easing entry requirements, abolishing the industry's antitrust immunity for collective ratemaking activities, and clearly establishing what actions, if any, state legislatures may take in the absence of federal statutes.

We thank you for this opportunity to present the views of the shipping community, and offer our continuing cooperation to you and your staff to realize our mutual goal of an efficient and effective interstate trucking industry.

The CHAIRMAN. Jim, thank you.

Mr. Velten.

Mr. VELTEN. Good morning. I am Dick Velten. I am Director of Transportation for Johnson & Johnson of Brunswick, NJ, and I am an officer of the National Small Shipments Traffic Conference, NASSTRAC, and the Drug and Toilet Preparation Traffic Conference.

And with me on my left is Dan Sweeney, who is legal counsel representing both of our groups.

Representatives of our Associations testified at the hearings, you will recall, which led up the Motor Carrier Act of 1980 and at the oversight hearings.

After 2 years of complete frustration and working through the established process of asking the ICC to review unjustified and inflationary motor carrier rate increases, our two shipper groups filed a petition asking the Commission to rule that it is not in the public interest for the rate bureaus to continue to enjoy antitrust immunity, to set rates collectively on shipments under 1,000 pounds.

In response to this filing, the Commission initiated a rulemaking, Docket No. MC-172, in which it said that it would not only consider our limited proposal, that is, under 1,000 pounds, but even the broader question of whether to remove all antitrust immunity of the Motor Carrier Rate Bureaus.

The rest is history. Just before the Commission met in August to vote on the future of the rate bureaus, it was confronted with a flood of letters from Congress, telling it that it did not have the authority to take this step. And while it is hard to believe that this pressure was spontaneous, the fact, nevertheless, is that the Commissioners voted unanimously not to disturb carrier immunity, to continue to collectively set rate increases on shipments under 1,000 pounds.

[A buzzer is activated.]

The CHAIRMAN. That is just testing of the buzzer.

Mr. VELTEN. Would you like me to continue?

The CHAIRMAN. Obviously, the test is successful.

[Pause.]

Mr. VELTEN. Does that count against my time?

The CHAIRMAN. I run a tight ship, but not that tight. You can have 30 seconds additional.

Mr. VELTEN. Thank you.

I have attached a table to my prepared testimony which tells the story of the rate increases since the Motor Carrier Act of 1980. Huge increases have been allowed during this noninflationary period. The Commission has authorized every general rate increase put up by the Bureau over the past 2 years.

At this point, the Commission has tossed the ball to Congress. If any action is to be taken to rectify the present inequality, where the carriers collectively set prices and the regulator refuses to regulate them, then it should be taken by this committee. We ask that this committee initiate legislation to terminate antitrust immunity for rate bureaus—and quickly.

As a second step, the Commission should be admonished to review general rate increases in an effective way. The table to my prepared testimony shows, by weight bracket, the rate increases taken by each of the rate bureaus, and then an exhibit overall for all rate bureaus. For the 3½-year period from the enactment of the Motor Carrier Act of 1980, through June of this year, during this time the rates on shipments under 1,000 pounds were increased approximately 48 percent. As we all know, the rate of inflation during this same 3½-year period has been in the area of about 5 to 6 percent per year, so the overreach here on small shipments is nearly triple the rate of inflation.

In order to obscure this fact, the rate bureaus have developed a tactic of deflating the revenues shown in their justification statements by discount factors. In this way, regardless of the number of percentages of increases, the profitability of the bureau-made rates never seems to improve.

For example, Mid-Atlantic Conference increase just filed with the Commission shows its present OR on minimum charges as 103.2, but if you go back to the Middle Atlantic's actual revenue expense figures on minimum charges for 1981 and bring them forward, adding the increases allowed since 1981, you arrive at a current OR of 87.3.

The Commission should require the carriers to break out the undiscounted rates and minimum charge traffic so that you can see the profitability of high rates and charges they are being asked to approve.

Another example of the rubber stamp over there is that the Commission has allowed a series of Rate Bureau general increases to offset the taxes in the Surface Transporation Assistance Act, even though studies by the DOT and the ATA show that these new taxes would more than be offset by productivity gains.

I will take my extra 30 seconds.

The major thrust directed at rate bureaus by the Motor Carrier Act of 1980 was, first, a collective ratemaking on single-line rates which shut down as of July 1, 1984: and second, that collective rate proposals would have to be proposed by an individual carrier, not by the Rate Bureau staff or some amorphous committee.

Yet; the bureaus have continued to docket for collective consideration such obvious individual carrier charges as detention, sorting, segregating, and others. These are assessorial charges which apply to the individual carrier and the Commission should no longer allow collective consideration.

We have repeatedly brought to the Commission's attention the practice by the bureaus of docketing general increases as committee proposals, where no individual carriers appear to be the proponent. The Commission has been refusing to reject these increases. We ask that this committee point out to the Commission that congressional intent is that committee proposals, just like bureau staff proposals, are not allowed under the statute.

Mr. Chairman, we have testified and been active in the process leading up to deregulation over these past few years, and I wonder if you will indulge us just for a minute. Mr. Sweeney has come upon some very recent and very topical information which I think the committee should hear.

[The table follows:]

Name (proposal) and date	Percent of increases by weight bracket (lbs.)							T.L.
	Minimum charge	0 to 500	500 to 1,000	1,000 to 2,000	2,000 to 5,000	5,000 to 10,000	10,000 and over	
All Bureaus								
Average percent increase by all Rate Bureaus:								
1981	12.2	12.1	11.8	10.7	10.8	9.4	8.7	4.4
1982	14.2	14.2	13.4	12.5	11.3	10.1	9.4	6.0
1983	14.2	10.8	8.9	7.0	4.7	3.5	3.4	5.4
1984	6.8	5.7	4.8	4.8	4.8	4.8	4.8	4.8
All years [1]	54.9	48.6	43.5	38.9	34.7	30.3	28.6	22.0
Central & Southern								
Labor Related G.R.I.: Apr. 01, 1981	8.6	9.3	9.3	9.3	9.3	4.5	4.5	1
Non-Labor Related G.R.I.: July 13, 1981	6.5	5.95	5.95	5.95	4.9	4.9	4.9	7
Non-Labor Related G.R.I.: Feb. 01, 1982	1	1	1	1	1	1	1	1
Labor Related G.R.I.: Apr. 01, 1982	7	10	10	7.1	7.1	7.1	7.1	2.5
Non-Labor Related G.R.I.: Oct. 27, 1982	8	8	8	4	4	2	0	0
General Rate Increase (G.R.I.) Apr. 01, 1983	12	10	10	10	4	4	4	3
Zip Code Rate: July 31, 1983	.2	.2	.2	.2	.2	.2	.2	.2
Rate Restructure Sept. 16, 1983	NC	NC	NC	NC	NC	NC	– (3.7)	6.3
General Rate Increase: Apr. 01, 1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
Rate Restructure/Increase [2]: May 25, 1984	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Totals:								
1981	15.7	15.8	15.8	14.7	14.7	9.6	9.6	1.7
1982	16.7	20	20	20	12.5	10.3	8.2	3.5
1983	12.2	10.2	10.2	10.2	4.2	4.2	.4	9.7
1984	6.1	6.1	6.1	6.1	6.1	6.1	6.1	6.1
All years [1]	60.7	62.4	62.4	50.9	41.3	32.7	26.4	22.5
Central States								
Labor Related G.R.I.: Apri. 01, 1981	8.5	8.5	8.5	8.5	8.5	8.5	8.5	5
I&SM 27312 Rollback: July 10, 1981	– (4.76)	– (4.76)	0	1.01	2.04	3.44	3.44	0
Non-Labor Related G.R.I.: Oct. 01, 1981	5	5	5	2	2	2	2	2
Labor Related G.R.I.: Apr. 01, 1982	8.3	8.3	8.3	8.3	8.3	8.3	8.3	4.5
Non-Labor Related G.R.I.: [3] Nov. 02, 1982	10	10	8	5	3.5	2	2	2
G.R.I. [4]: Jan. 31, 1983	5	4	3	2	1	0	0	2
General Rate Increase: Apr. 01, 1983	8	8	8	5	5	3	3	3
Rate Restructure: July 25, 1983	NC	NC	NC	NC	NC	NC	– (1)	5.9
General Rate Increase: Apr. 01, 1984	5	5	5	5	5	5	5	5
Totals:								
1981	8.5	8.5	13.9	11.7	12.9	14.5	14.5	7.1
1982	19.1	19.1	17	13.7	12.1	10.5	10.5	6.6
1983	13.4	12.3	11.2	7.1	6.1	3	2	11.3
1984	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0

Name (proposal) and date	Percent of increases by weight bracket (lbs.)							T.L.
	Minimum charge	0 to 500	500 to 1,000	1,000 to 2,000	2,000 to 5,000	5,000 to 10,000	10,000 and over	
All years [1]	40.0	38.6	44.1	36.2	36.2	34.1	32.8	30.7
Eastern Central								
Labor Related G.R.I.: Apr. 01, 1981	6	6	6	6	6	6	6	4
Non-Labor Related G.R.I.: May 26, 1981	2	2	2	2	2	2	2	2
Non-Labor Related G.R.I.: Nov. 12, 1981	5	5	5	3	3	2	2	.5
Labor Related: Apr. 01, 1982	6.5	6.5	6.5	6.5	6.5	6.5	6.5	4.5
Non-Labor Related G.R.I.: Nov. 08, 1982	8	8	8	8	8	8	8	3
General Rate Increase: Apr. 01, 1983	7	7	7	7	7	7	7	3
Rate Restructure: June 20, 1983	10	3	NC	NC	−1.84	−1.84	−1.84	−1.84
Rate Restructure: Sept. 06, 1983	NC	NC	NC	NC	NC	NC	.2	1.7
Rate Restructure: [5] Dec. 05, 1983	NC	NC	NC	NC	NC	NC	20.3	4.0
General Rate Increase: Apr. 01, 1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
Totals:								
1981	13.5	13.5	13.5	11.4	11.4	10.3	10.3	6.6
1982	15	15	15	15	15	15	15	7.6
1983	17.7	10.2	7	5	5	5	26.4	5.1
1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
All years [1]	59.6	49.4	45.5	39.7	39.7	38.4	66.6	25.3
Middle Atlantic								
Labor Related G.R.I.: Apr. 01, 1981	7.5	7.5	7.5	7.5	7.5	7.5	7.5	3.5
Non-Labor Related G.R.I.: Feb. 08, 1982	2.7	2.7	2.7	2.7	2.7	2.7	2.7	.7
Labor Related G.R.I.: Apr. 01, 1982	7	7	7	7	7	7	7	5.5
Non-Labor Related G.R.I.: Nov. 22, 1982	2	2	2	2	2	2	2	2
General Rate Increase: Apr. 01, 1983	7	7	7	5	5	5	5	3
Rate Restructure: July 31, 1983	9	6	2	NC	−5	−5	−13	NC
Rate Restructure: Dec. 05, 1983	NC	NC	NC	NC	NC	NC	NC	2%
General Rate Increase: Apr. 02, 1984	8	8	4	4	4	4	4	4
Totals:								
1981	7.5	7.5	7.5	7.5	7.5	7.5	7.5	3.5
1982	12.1	12.1	12.1	12.1	12.1	12.1	12.1	8.4
1983	16.6	13.4	9.1	5	NC	NC	−(8.6)	5.1
1984	8	8	4	4	4	4	4	4
All years [1]	51.7	47.6	36.8	31.6	25.3	25.3	14.5	22.6
Middlewest								
Labor Related G.R.I.: Apr. 01, 1981	6.5	6.5	6.5	6.5	6.5	6.5	6.5	3
Non-Labor Related G.R.I.: July 27, 1981	10	8	4	4	4	4	4	1
Labor Related G.R.I.: Apr. 01, 1982	7	7	7	7	7	7	7	5
Non-Labor Related G.R.I.: July 31, 1982	10	10	6	6	6	2	0	0

Name (proposal) and date	Percent of increases by weight bracket (lbs.)							
	Minimum charge	0 to 500	500 to 1,000	1,000 to 2,000	2,000 to 5,000	5,000 to 10,000	10,000 and over	T.L.
General Rate Increase: Apr. 01, 1983	10	10	10	6	6	3	3	3
Zip Code Restructure: Feb. 01, 1984	2.2	2.2	2.2	2.2	2.2	2.2	2.6	2.6
General Rate Increase: Apr. 01, 1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
Totals:								
1981	17.2	15	10.8	10.8	10.8	10.8	10.8	4
1982	17.7	17.7	13.4	13.4	13.4	9.1	7	5
1983	10	10	10	6	6	3	3	3
1984	6.2	6.2	6.2	6.2	6.2	6.2	6.2	6.2
All years [1]	61.0	58.1	46.7	41.4	41.4	32.2	30.1	19.9
New England								
Labor Related G.R.I.: Apr. 01, 1981	9	9	9	9	9	9	9	6
Labor Related G.R.I.: Apr. 01, 1982	6.5	6.5	6.5	6.5	6.5	6.5	6.5	4.5
General Rate Increase: Apr. 01, 1983	8	8	5	5	5	5	5	5
General Rate Increase: Apr. 01, 1984	16.3	6	2.5	2.5	2.5	2.5	2.5	2.5
Totals:								
1981	9	9	9	9	9	9	9	6
1982	6.5	6.5	6.5	6.5	6.5	6.5	6.5	4.5
1983	8	8	5	5	5	5	5	5
1984	16.3	6	2.5	2.5	2.5	2.5	2.5	2.5
All years [1]	45.8	32.9	24.9	24.9	24.9	24.9	24.9	19.2
Pacific Inland								
Labor Related G.R.I.: Jan. 03, 1981	7.5	7.5	4	4	4	0	0	0
Labor Related G.R.I.: Apr. 01, 1981	5	5	5	5	5	5	3	3
Non-Labor Related G.R.I.: July 27, 1981	3.4	3.4	3.4	3.4	3.4	3.4	3.4	3.4
Labor Related G.R.I.: Apr. 05, 1982	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5
General Rate Increase: Apr. 01, 1983	7	7	7	7	3	3	3	3
General Rate Increase: Apr. 01, 1984	6	6	6	6	6	6	6	6
Totals:								
1981	16.7	16.7	12.9	12.9	12.9	8.6	6.5	6.5
1982	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5
1983	7	7	7	7	3	3	3	3
1984	6	6	6	6	6	6	6	6
All years [1]	38.3	38.3	33.8	33.8	28.8	23.9	21.5	21.5
Rocky Mountain								
Labor Related G.R.I.: Apr. 01, 1981	9	9	9	5	5	5	1	1
Non-Labor Related G.R.I.: July 06, 1981	2	2	2	2	2	2	2	2
Labor Related G.R.I.: Apr. 01, 1982	6.2	6.2	6.2	6.2	6.2	6.2	6.2	6.2
Non-Labor Related G.R.I.: July 19, 1982	5	5	5	5	5	5	5	5

Name (proposal) and date	Percent of increases by weight bracket (lbs.)							
	Minimum charge	0 to 500	500 to 1,000	1,000 to 2,000	2,000 to 5,000	5,000 to 10,000	10,000 and over	T.L.
Rate Restructure [6]: July 30, 1982	.8	.8	.8	.8	.8	.8	0	0
Rate Restructure [7]: Aug. 16, 1982	4.4	4.4	3.5	4.9	3	1	0	0
Rate Restructure: Jan. 26, 1983	12	8	4	0	0	–(3)	–(5)	0
General Rate Increase: Apr. 01, 1983	6	6	6	6	3	3	3	3
Rate Restructure: July 25, 1983	1.9	1.9	1.0	2.4	5.0	3.8	–(3.1)	–(2.3)
General Rate Increase: Apr. 01, 1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
Totals:								
1981	11.2	11.2	11.2	7.1	7.1	7.1	3	3
1982	17.3	17.3	16.3	17.9	15.8	13.5	11.5	11.5
1983	21.0	16.7	11.3	8.5	8.2	3.7	–(5.2)	.6
1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
All years [1]	64.0	58.2	49.6	42.3	39.4	31.0	13.1	20.0
Southern								
Labor Related G.R.I.: Apr. 01, 1981	7.6	7.5	7.5	7.5	7.5	4.5	4.5	0.5
Non-Labor Related G.R.I.: June 15, 1981	3.0	3.5	3.5	3.5	3.5	2.5	2.5	0.5
Labor Related G.R.I.: Apr. 01, 1982	7.9	7.4	7.4	7.4	7.4	7.4	7.4	1.5
Non-Labor Related G.R.I.: Nov. 15, 1982	10.1	8	8	2	2	2	2	1
General Rate Increase: Apr. 01, 1983	13.1	8	8	8	4	4	4	2
Rate Restructure: July 31, 1983	5.2	0.9	0.9	0.9	0.05	0.05	0.05	2.5
Rate Restructure: Dec. 12, 1983	2.1	.6	.6	.6	.6	.6	.6	.1
General Rate Increase: Apr. 01, 1984	3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.9
Rate Restructure/Increase [8]: June 01, 1984	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85
Totals:								
1981	10.8	11.3	11.3	11.3	11.3	7.1	7.1	1
1982	18.8	16	16	9.5	9.5	9.5	9.5	2.5
1983	21.5	9.6	9.6	9.6	4.6	4.6	4.6	5.6
1984	5.8	5.8	5.8	5.8	5.8	5.8	5.8	5.8
All years	59.9	41.5	41.5	33.6	27.5	22.7	22.7	9.3

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[1] Due to cancellation by the Central States bureau of its November, 1982 rate increase, the totals for "All years" has not been derived from a simple calculation of the cumulative effects of the 1981, 1982, 1983, and 1984 increases, respectively.

[2] This proposal does not affect all traffic. It will raise rates on traffic moving between 40 and 500 miles. This will be done in the following manner: 5 percent increase on traffic moving between 40 and 300 miles; and a 1.6 percent increase on traffic moving between 301 and 500 miles. The overall impact of the proposal on affected traffic is approximately 2.1 percent.

[3] Since this rate increase was cancelled on Jan. 31, 1983, it has not been used to derive the totals for all years, even though it has been included in the 1982 figures.

[4] These rates were put into effect concurrently with the cancellation of the Nov. 2, 1982 increase.

[5] The Dec. 5, 1983 rate restructure cancelled the Sept. 6, 1983 rate restructure.

[6] This rate restructure affected ICC RMB Tariffs 225 A and 226–A.

[7] This rate restructure affected Tariff ICC RMB 329–A.

[8] This increase proposal only affects rate base number from 0 to 475. Rate base numbers from 0 thru 300 will increase 3 percent; 301 thru 325 will increase 2.62 percent; 326 thru 350 will increase 2.25 percent; 351 thru 375 will increase 1.87 percent; 376 thru 400 will increase 1.50 percent; 401 thru 425 will increase 1.12 percent; 426 thru 450 will increase .75 percent; 451 thru 475 will increase .37 percent. The overall impact of the proposal is approximately 1.25 percent.

The CHAIRMAN. Mr. Sweeney.

Mr. SWEENEY. Yes; excuse us, Mr. Chairman.

What I have here is some material that we obtained yesterday under the Freedom of Information Act from the ICC's files. What it is, it is the Commission's internal file on the most recent general rate increase of the Central and Southern Rate Bureau which was to become effective on September 4.

We just got the material yesterday, so I would like the privilege of filing this information with your committee. What it shows essentially is—and these are the carriers' figures, these are not our figures—what it shows essentially is that the manufacturing industry has a return on equity of about 11 percent, and the proposal that the carriers made here according to the Commission staff, the Section on Cost Analysis, would give the carriers a return of 32 percent on equity.[1]

The Section on Financial Analysis concluded that the carriers did not require any general increase in order to earn a reasonable return. The increase was not justified.

The **Chairman**. Whose recommendation was that?

Mr. **Sweeney**. This is the Section of Financial Analysis of the ICC, the staff experts. They said there is no increase here. What you are looking at is a rate increase that would give the carriers triple a normal rate of return. And the Commissioners nevertheless voted not to suspend the increase.

So this is the kind of thing that Mr. Velton is talking about, but it gives the committee some actual figures here in black and white from the Commission's files.

The **Chairman**. That is most interesting. I appreciate that. I will take a look at them when we are done.

Let me ask each of you three questions—preemption. Jim, you touched on it a bit, but let me start with Mr. Archer. You heard the questions earlier. Should we pass federally preemptive legislation, not unlike the bus legislation, as far as trucking is concerned?

Mr. **Archer**. I would say yes, Mr. Chairman. We have been trying to get some deregulation in several States, and we are not very successful in our attempts. We think to have a more uniform flow of products within the States, that preemption is the way to do it.

The **Chairman**. Jim.

Mr. **Edler**. I echo that, Mr. Chairman. The league has been involved—and I personally have been involved—in a number of different States. California is considering rolling back the clock with a new reregulatory scheme. We just came out of the State of Arkansas where they had passed a ruling that would prohibit all discounts. This means that the list price we were discussing—the full price of the gold chain—was the price that everyone was going to have to pay. We were successful finally in getting some relief.

The States of Tennessee and Kentucky, at the urging of carrier interests, as well as the States of Illinois and Georgia, are considering statutes and/or changes in various State rules which would circumvent any adverse decision handed down in the *Southern Motor Carrier* case. This case, which is now pending with the Supreme Court, would disallow collective ratemaking if there was no State compulsion for that activity.

So, while on the interstate level we are marching forward into a bright and what seems to be a happy future, in some States, we seem to be going in the opposite direction. I agree with you that these efforts are not a bread and butter money issue with the States. I think we might have success in getting some preemption in that particular area.

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[1] This material has been retained in the Committee files.

The CHAIRMAN. Mr. Velten.

Mr. VELTEN. Well, first, Mr. Chairman, I should note that the "we" that Jim Edler alludes to is the not the NIT League, but NASSTRAC and the Drug and Toilete Preparation Traffic Conference, and on an ad hoc basis, we have entered those intrastate cases.

Although we have taken no formal position relative to preemption, it is my feeling that it is consistent with our current policy to be supportive.

The CHAIRMAN. Where is the opposition going to come from, other than the National Association of Regulatory Utility Commissioners? Even within the trucking industry, you have some difference of opinion about collective ratemaking, but none on preemption, and none from shippers that I can find. Where will the opposition come from?

Mr. VELTEN. As has been stated a couple of times here this morning, there will be some opposition where it serves the purpose of individuals.

The CHAIRMAN. Well, they will be in an interesting position in that case, because their associations will be coming here, testifying in favor of preemption, whether it is the American Trucking Association or any of its State affiliates or any of your groups, in favor of preemption. So it is going to have to be individuals in that case that come and say no matter what, we do not want preemption in our area, and I suppose there will be some like that.

Mr. Sweeney.

Mr. SWEENEY. Mr. Chairman, if I could go over a fine point here, you know in the Staggers Act, the statute was written in such a way that the States have to conform to the Federal standards set by the ICC. Now, if we were to assume that what is going to be proposed is a bill which said that the States have to conform to the ICC standards of regulation as set by the ICC, then we would be as bad off in all these individual States as we are today with the ICC.

And we are worse off with the ICC in terms of rate increases than we are with the States. The States are taking a case-by-case look at rate increases. The ICC is not. They are shuffling the papers, as Chairman Taylor said. So it would depend on how the bill was worded.

I think if the bill had its own standard and said this is what we want the States to do, but to just turn the State regulation over the ICC, including general rate increases, that would not be a very——

The CHAIRMAN. Well, that is what you normally talk about when you say preemption, because then the next issue is, what remaining powers do you leave with the ICC, which is now the preemptive organization and the only one, for all practical purposes, that has any jurisdiction. And it is a valid question.

Let me ask you a further question about the suit involving collective ratemaking and the Commission's unanimous decision. You heard the chairman this morning indicate that he thought they had the power but he did not think the record was adequate to reach the conclusion you wanted to reach.

Do you want to comment on that?

Mr. EDLER. My comment on that is that that record was developed by a number of shipper groups, including the National Industrial Transportation League, and there is no question that the rate increases which have been levied by the rate bureaus weigh very, very heavily on shipments under 1,000 pounds.

Of course, it was the Commission's own action that allowed those rate increases to go into effect. Thus, the ICC would have to disavow its own actions to approve the elimination of collective ratemaking on shipments under 1,000 pounds. Needless to say, the agency was on the horns of a dilemma as to how to proceed when they would have to disavow their own actions in that particular regard.

Mr. SWEENEY. Could I amplify that, because I represented NASSTRAC and was very active in making the record in that case. We consider that reference by the Commission in its decision a rather cheap shot.

The CHAIRMAN. The inadequate record reference?

Mr. SWEENEY. Yes; we consider that—you know, if they had the guts, they should have come out and said, well, we have got so much pressure from the Hill that we just don't want this hot potato, and said something like that.

Now, whether people can say that in a decision or not, I don't know. But this was an alternative way of issuing a decision.

The CHAIRMAN. I am not sure that is a legal basis for the decision.

Mr. SWEENEY. Well, that is the point I am trying to reach. There are differences in the standards of what a Commission has to have in front of it as between a rulemaking and what you call a case-by-case litigated case.

Now, the beauty of a rulemaking which the Commission enjoys is that you do not have to have substantial evidence. When you go to court, you do not have to have substantial evidence to support a rulemaking. A rulemaking is essentially a policy case. The Commission can say, in the public interest we find that the policy is best served by not having the rate bureaus get together and make these rates on small shipments. They really don't need substantial evidence.

So when they came out and said well, there is not enough substantial evidence here, they were really off the mark. What they were saying is that we do not want to announce this policy, for whatever combination of reasons. We were doubly disappointed to see them not only turn down what we thought was our last chance to get some rate relief, but then to sort of lay it off on us on top of it.

The CHAIRMAN. Jim, let me ask you this question. You want to respond there?

Mr. EDLER. I wanted to add one thing. This is especially dangerous, since the chairman told us this morning that he is seeing the level of carrier discounts abating. Now, what this means is that we are getting to the point where everyone is going to have to pay full price for the gold chain, which everybody knows is not in all circumstances worth the full price.

Further, there was a reference to the number of carrier bankruptcies which have occurred. While there is no question they have occurred, I want to take exception to the statement of one of the prior witnesses. I think it was a Teamsters witness, who indicated that a number of carriers have closed their doors. Well, that just is not so. A number of carriers—a large number of those carriers—have filed under chapter XI asking for some monetary relief from the Teamsters Union's National Master Freight Agreement. The Teamsters refused to give them that relief. So, the door was not closed on them; they closed the door on themselves.

You wanted to ask a question.

The CHAIRMAN. Yes. Would the league—and you and I have discussed this before, but let's put it on the record—would the league be willing to support a phaseout of the remaining antitrust immunity and the collective ratemaking in exchange for a statutory deadline on total truck deregulation, except for fitness and safety. Most people do not argue that part.

Mr. EDLER. Yes, the league is on record in a previous meeting we had in these very chambers on this issue. However, it is also the league's position that if there is going to be a phaseout period, the Commission is going to have to give some relief to shippers, especially shippers of small shipments.

The CHAIRMAN. During that period?

Mr. EDLER. During that phaseout period.

The CHAIRMAN. Jim.

Senator EXON. Thank you, Mr. Chairman. Two things I would just like to touch on briefly, and I would like each of you to give me a response if you can.

How much are each of you involved, if at all, in truck shipments to or from your facilities? I am thinking particularly of the continuing complaints that I am hearing from the more rural areas of our great country as to what the whole deregulation of the trucking industry has done to them.

Do you hear these complaints and, if so, do you agree that deregulation may be good for the larger communities, but not so good service-wise to the smaller communities?

Mr. ARCHER. Mr. Senator, we have plants in the far reaches of the country, where the forests are located—this would be in Washington and Oregon, in the State of Louisiana, Upper State New York by the Canadian border—and then we have other facilities throughout the country.

We are very used to being in rural areas. I mean that is really where the pulp and paper industry, forest products industry, comes from. We have shown on the record that our services have improved and our costs have gone down in actual terms since deregulation of trucking.

Senator EXON. Including small communities? Now, that is what you are saying.

Mr. ARCHER. That is right. We ship, for example, from let's say, the Washington and Oregon area, from the Olympic Peninsula and from the Columbia River, we ship to all the 11 western States. They are rural. We ship to Montana and Utah and any State you could think of if you consider them to be rural in the context of your——

Senator **Exon**. They certainly are.

Mr. **Edler**. Senator, American Greetings Corp.—I can only speak for the company that employs me—has facilities in such thriving metropolises as McCrory, AR., Harrisburg, AR., Oceola, AR., Danville, KY., and Corbin, KY, all of which are small communities. We have had no service difficulties whatsoever.

There is another point I would like to make. This panel includes Mr. Archer from Crown Zellerbach. I am with American Greetings Corp., and Mr. Velten is with Johnson & Johnson. American Greetings Corp. has 55,000 customers including some of the smallest drugstores in the smallest communities in the United States.

We are not going to allow the carriers with whom we do business to say well, I am only going to take your shipments to Chicago, St. Louis, Memphis, or Los Angeles, and you will have to give shipments for the smaller communities to someone else.

In point of fact, when we sit down with a carrier to discuss our service needs, we tell that carrier it will service our needs on a broad basis.

I would also note that once a truck is in that small rural community to deliver products from Johnson & Johnson or Crown Zellerbach or American Greetings, it would be foolhardy for that carrier to leave that community without picking up as much freight as is available there.

So in point of fact, it is even the big people that you referred to earlier—the big shippers of the larger communities—which motivate service to these very small communities. We have had no difficulty in getting service to those communities whatsoever.

Thank you.

Mr. **Velten**. Johnson & Johnson is a family of companies, and we have about 50 companies domestically, most of them multifacility type of companies, large companies. And although we do not have 50 or 55,000 customers, we probably have 20 or 25,000 customers.

So we are shipping to and from many, many rural areas. And like the witnesses before me, we have not encountered any kind of service delays that are worth note here.

Let me make a further note. It is my view that service never was the issue in this whole deregulation scenario. The issue was always cost. There was always going to be a company, a transportation company at some cost who would find their way into the market to provide service, and a lot of people trotted ghosts out of the closet, and our groups did that, too, but as it has unfolded, what we found is that service has continued at a fairly high level; certainly, in my view—Johnson & Johnson now—probably a better level of customer—we enjoy probably today a better level of customer service than we did 10 years ago.

Senator **Exon**. Even with fewer companies operating, or are there more? In Johnson & Johnson, do you have more outlets to provide truck service to a certain point in Utah than you did before, or less?

Mr. **Velten**. Mr. Edler touched before on an important consideration in companies such as ours. And that is that you don't use an enormous number of carriers out of the facility because you like the service and cost leverage that giving your freight to just a relatively few carriers gains you.

Essentially, the regional carrier network that we use, have always used to support our customer shipments, which are about 500 pounds, essentially the character of that network is about the same. We still have a lot of service carrier available on a regional basis. There have been dislocations.

Senator EXON. Then what you are all telling me, at least in your view, since deregulation we have improved service and reduced costs. Is that the bottom line?

Mr. ARCHER. That is right, Senator. I would like to just make an extended point. Before 1980, you had carriers with operating authority from the ICC, and if they gave service, that was fine; if they did not give service, there was not anything you could do about it. You were just stuck with those carriers.

Today, we have people pounding on our door, businessmen trying to get in business. And what we do is we tell them what service levels we want, and then we test them and try them, and if they could do that, they get the business and the other carrier goes away. We did not have that before.

Senator EXON. One last question.

Mr. VELTEN. If I could respond to that, I can't let that one get by because—I am not sure how much of the improved service can be attributed to deregulation, at least in small shipments. Nonetheless, I sense that it is there. Certainly, though, we have not reduced cost, not on the small shipment kind of traffic, and when over the past 3½ years we have sustained increases rubberstamped by the ICC.

The CHAIRMAN. Which is still the regulated part of the shipments.

Mr. VELTEN. That is correct.

The CHAIRMAN. Don't confuse that with Jim's question about deregulation, because that is still yet to be deregulated in many aspects.

Senator EXON. One last question of the panel. Not directly in your area, of course, but you know we have had essentially deregulation of the trucking industry, deregulation of the rail industry. Do all of you do rail and truck shipment, or are you primarily shippers of truck?

What I am trying to get at is your opinion of the deregulation of both rail and truck; has that caused any particular difficulties or has that also improved service and decreased costs in most instances?

Mr. ARCHER. Senator, we use both rail and truck, but predominantly truck, well over 50 percent, and the reason for that is because they have had much greater flexibility and they have been deregulated longer.

Railroads are just starting to come back. We deregulated boxcars, the ICC did here recently, and piggyback was deregulated. We see tremendous strides in the piggyback area, and we are hoping and we are getting response from railroads in the carload area, although we think we are long way off there because basically they are not making many bucks, I don't believe, on carload traffic.

But we have seen response in both areas. Our costs, as you will see on our chart, have come down substantially in the last several years, and we attribute it to the deregulation posture, both rail and truck.

Mr. **Edler.** Senator, the league's experience with rail deregulation is somewhat different from that of motor carrier deregulation. In the motor carrier area, we are talking about an industry where the capital entry costs are relatively low. Almost anyone can borrow enough money to lease a truck or a tractor-trailer, and enter the buisness.

It is very ubiquitous type of thing. Trucks move throughout the Nation, and the competition is free and open—and in some cases wild and wooly.

On the other hand, in the rail industry, entry requires tremendous capital investment. You are talking about small numbers of railroads—in effect, monopolies in certain instances between particular shippers and railroads. The protections that have to be afforded to shippers are much greater, in the opinion of the league, than in the case of motor carrier transportation.

There have been problems with reciprocal switching, trackage rights, and with shippers being in a position of having to conform to a monolithic monopoly in the case of particular railroads.

Senator **Exon.** Who pays for the cars when they are——

Mr. **Edler.** That is a question, too. Obviously, the railroads would like to make someone else pay for them. If they are in a monopoly position, they are certainly in that position to do that. There is a substantive difference between motor carrier competition and rail competition.

Senator **Exon.** Well, I reckon there is this competition. What I was trying to get at, are there options for people to go either truck or rail?

Mr. **Edler.** No. You don't have the options for truck or rail with certain commodities. For instance, in the movement of coal to power companies, there is no truck option at all.

Senator **Exon.** Do you have anything to add to that, Mr. Velten?

Mr. **Velten.** In our business we are very heavily slanted, as are the shipper groups I am representing, very heavily slanted toward truck transportation. I think over the past few years, we have seen the revitalization due to costs in the piggyback area, and so we are starting to use more piggyback now than before.

And boxcar traffic in our business, because of price and I think largely because of service tended to dry up a few years ago, and with the economic conditions in the country such as they were, there was a great emphasis on reducing inventory, moneys put into inventory, and railroad boxcar type of service generally was mitigated against by that situation.

Senator **Exon.** Thank you, gentlemen. Thank you, Mr. Chairman.

The **Chairman.** Fellows, I have no more questions. Thank you very much. We are adjourned.

[Whereupon, at 11:28 o'clock a.m., the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

National LP-Gas Association,
Arlington, VA, September 14, 1984.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

Dear Senator Packwood: The National LP-Gas Association (NLPGA) offers the following comments on Section 30 of the Motor Carrier Act of 1980 and requests that they be incorporated into the record of the oversight hearing scheduled by your Committee for September 18, 1984.

NLPGA is the national trade association of the LP-gas (principally propane) industry with a membership of about 4100 including 47 affiliated state and regional LP-gas associations representing all 50 states. NLPGA represents all segments of the propane industry including producers, transporters, wholesalers and retailers of propane gas, as well as the manufacturers and distributors of associated equipment and appliances. Our members own over 25,000 transport and delivery trucks operating in both interstate and intrastate commerce, in private and for-hire carriage. Over 93% of the propane shipped in the United States travels by tank truck at one time or another.

NLPGA has consistently registered its opposition to Section 30 of the Motor Carrier Act of 1980, a provision adopted without benefit of hearings or any documented evidence of need. If Congress believes there is merit in mandatory minimum levels of financial responsibility, then we suggest and support amendment to Section 30 to grant discretionary authority to the Secretary of Transportation to establish the appropriate levels. Such discretionary authority would provide an opportunity to establish limits bases on a record of proven need with flexibility to adjust limits as needs change.

CONGRESS WAS SOLD A BILL OF GOODS

Quite frankly, Congress was sold a bill of goods in 1980. Congress was told that deregulation would open the door for any huckster to enter the trucking industry and make a quick profit with little or no concern for truck safety. Images of outmoded and unsafe rigs; of unskilled, illiterate and poorly trained drivers; and of callous, money-hungry entrepreneurs were portrayed against a montage of past trucking accidents. Congress was told that the best way to prevent this was to mandate a certain minimum level of financial responsibility: only the safe operators could get insurance and the "bad actors" would be forced off the road by the insurance companies. Nothing could be further from the truth.

Due to a residual market mechanism, any trucker denied coverage by three insurance companies and who has a valid driver's license can obtain insurance. The American Insurance Association has repeatedly testified that insurance is available to all, no matter what their safety record may be, through assigned risk pools; that there is no correlation between enhanced safety and levels of insurance; that the insurance industry does not wish to nor can it act as surrogate regulators of the motor carrier industry; and, that safety may even be compromised as scarce financial resources are diverted from truck maintenance and driver education to pay higher insurance premiums.

NLPGA SURVEY

In an effort to document this latter point—that money previously spent on truck safety may be diverted to cover the higher premiums resulting from Congressionally-mandated minimum levels of financial responsibility—in February 1984, NLPGA surveyed its smaller marketer members, those with annual sales of propane under 2 million gallons. The purpose of the survey was to obtain statistical data on truck operations, safety and insurance levels. Responses to the questionnaire were received from 720 companies, 27 percent of the 2,672 companies surveyed.

The survey was limited to the smaller propane marketers for two reasons: first, smaller companies are less likely to carry the statutory level of insurance required by the Motor Carrier Act of 1980; and, second, the cost of insurance, safety training, driver education and truck maintenance typically represents, percentage wise, a larger budget item for small companies than large companies. As a result, we believe this report shows a conservative picture of the propane industry: figures for safety-related expenditures have not been inflated by a few high-budget companies.

The 720 respondents averaged 25 years in the propane business.

A total of 54.5 million miles per year of hazardous materials transportation is represented, or 75,500 miles per company. The total number of trucks owned by the respondents is 219 "bulk" trucks (over 3500 gallons water capacity) and 2,090 bobtails (trucks exceeding 10,000 pounds gross vehicle weight rating (gvwr), but under 3,500 gallons w.c.). The statute exempts vehicles under 10,000 pounds gvwr. The average number of trucks per respondent is 3.2 delivering an average one million gallons annually. The total annual sales represented by the survey is three-quarters of a billion gallons to approximately 1 million customers.

Industry Safety Expenditures.—One aspect of the survey attempted to ascertain the small propane marketer's commitment to safety. Thus, respondents were asked how much is budgeted for truck maintenance and purchases, driver training, and safety training. The respondents reported an average annual budget for truck purchases of $16,800; truck maintenance, $16,200; driver training, $1,100; and, safety training, $850. The current average annual cost of insurance for respondents is $10,500. This cost will increase markedly when the Congressionally-mandated minimum levels of financial responsibility are fully implemented on January 1, 1985.

For example, companies operating bobtails are currently required to demonstrate $500,000 minimum financial responsibility. An increase to $1,000,000 as required by the Act will mean an additional $2,165 in premiums, per company: an increase of 20 percent. Bulk vehicles (transports) must now be insured for $1,000,000; an increase to $5,000,000 will increase premium costs by an average of $3,066 per company, or 30 percent.

How Will Industry Cover Cost Increases?—Cost increases of 20 percent to 30 percent are not insignificant and cannot merely be absorbed. The natural reaction may be to assure that these expenditures will be merely another cost of doing business and will be passed on to the customer; unfortunately for the small businessman, various factors militate against a mere passthrough. Thus, for example, competition, the general state of the economy, and other overhead cost increases will work to deter an automatic price increase to cover each new cost.

We wanted to find out what would be the response of marketers facing a cost increase of this magnitude. Thus, we asked the following question: "Assuming you are required to increase your insurance premiums to reach the statutory levels, in what portion(s) of your operations, if any, would you be forced to reduce expenditures?"

Since we did not suggest categories where expenditures might be reduced, we had a variety of answers. The following were the most frequent responses, listed by the percentage of responses:

1. Reduce truck purchases, 25 percent.
2. Reduce truck maintenance, 12 percent.
3. Reduce driver training, 10.5 percent.
4. Reduce safety training, 9.3 percent.
5. Increase price of product, 7.5 percent.

These figures clearly indicate that Congressionally mandated higher levels of insurance may have an adverse impact on safety in the propane industry. Thus, for example, 37 percent of the respondents will divert money from equipment purchase and maintenance to buy more insurance. Another 19.8 percent will reduce training programs to pay for this Congressionally required insurance. Out of 720 small propane marketers serving a million customers annually and traveling 54.5 million miles, 409 will begin operating increasingly older and less well-maintained trucks with poorer trained drivers, all in the name of safety!

This belies the concept behind Section 30 of the Motor Carrier Act of 1980 that higher insurance increases safety. By analogy we can compare this to life insurance. Is a person who is insured for $50,000 less apt to die than a person insured for $1,000,000? Insurance has no bearing on the question. What, however, if the one insured for $1,000,000 cannot afford preventive maintenance (annual physicals) because they spend their available funds on insurance premiums? At this point the insurance may make their life less safe than that of the person who carries less insurance and gets annual physicals (preventive maintenance).

Small Marketer Accident History.—Traveling an average of 54.5 million miles per year, the 720 respondents have had accidents. These marketers reported a total of

1000 accidents in which their trucks have been involved over the past 10 years. Of these 1000 reported accidents, 300 resulted in the payment of a judgment, settlement or paid claim. Of these 300 judgments, settlements or paid claims, 282 or 94 percent amounted to no more than $50,000. Indeed, 225 or 75 percent were under $5,000!

Since Congress focused on members of the hazardous materials industry—and liquefied gas carriers in particular—for special treatment, it is important to zero in on those accidents where there was a release of product. After all, one of the most frequently reported forms of accident was trucks hitting low-hanging tree limbs: hardly a threat to society. Our survey asked for the total number of accidents ever (not confined to the past 10 years) in which product was released. The answer was 17. Of those seventeen, in only 6 did the release of the product contribute to damages. Of those 6, one resulted in $4,000 damages, one caused $3,000 in damages, one was covered by workman's compensation, one is not yet settled, and the sixth resulted in no damages.

Congress Must Wake Up.—We believe our survey tells a clear story:

(1) the accident history of the propane industry demonstrates neither a tendency toward sloppy handling nor a record of repeated catastrophic incidents and uncompensated victims;

(2) the added costs to industry will be substantial and, again, are not offset by any corresponding benefits; and,

(3) the net result may be an actual reduction in the level of operating safety in order to cover the higher premium costs.

The American Insurance Association submitted corroborating data to the Federal Highway Administration obtained from the Insurance Service Office (ISO), the statistical agent representing 75 percent of the total commercial automobile market. The ISO data, reported in the July 2, 1984, Federal Register, page 27290, reflect commercial automobile losses (including public autos, garage vehicles and trucks) incurred from January 1, 1977, through September 30, 1981. There were 1,908,861 paid losses, 839 of which were settled for between $250,000 and $500,000. Only 157 losses were settled for over $500,000. That amounts to one-one hundredths of one percent.

In that same Federal Register notice which was the extension of the lower phase-in levels of the financial responsibility rules through the end of 1984, the Federal Highway Administration (FHwA) published their own statistical findings. They analyzed 32,393 accidents reported in 1982 to determine their "societal costs", an aggregate of their fatalities, injuries and value of property damage. The FHwA analyses revealed that only 6 of 32,393 accidents (two one-hundredths of one percent or a risk of 105 in a million) had aggregate societal costs in excess of $500,000. In 1982, only three accidents were reported with property damage equal to or greater than $1 million: in these three accidents, the average societal costs amounted to $1.4 million.

CONCLUSION

NLPGA urges the Senate Commerce Committee to begin work immediately to either rescind Section 30 in its entirety or to enact legislative recommendations offered by the U.S. Department of Transportation which would permit the establishment of appropriate financial responsibility levels by DOT where a need for such levels is clearly demonstrated and at an amount which will not be injurious to small business.

Respectfully submitted.

DANIEL N. MYERS,
Vice President, Government Relations and General Counsel.

BUSINESS COUNCIL,
Washington, DC, September 17, 1984.

Senator BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: The Business Council for Improved Transport Policies is pleased to offer you its comments concerning the results of the 1980 Motor Carrier and Railroad regulatory reform legislation, and the roles of principal groups of transport market participants in the evolution of transport markets following passage of that legislation.

As you know, the Business Council, a shipper committee successor to two others which assisted enactment of 1976 and 1980 regulatory reform legislation, has monitored the implementation and effects of this legislation. We are pleased to advise that the Council is now initiating an expansion program to assist in anticipated efforts to complete the "deregulatory" task heretofore begun.

In our view, there can be no substantial question that the "deregulation" legislation has thus far produced a substantial improvement in truck market efficiency. Price/performance ratios are better, the supply of trucking companies is ample, there is no diminution of service to smaller communities or other identifiable marginal markets, and there is a greater diversity in offerings to shippers. Over a year into the general economic recovery, there is no evidence of excessive price run-ups, instability, or other difficulty in market adjustment over the full business cycle.

One of the most enjoyable and rewarding results of the regulatory change is the increase in dynamism, indeed the burst of innovative activity, in the surface transportation market. All sorts of entrepreneurial, entities and combinations have emerged, with intricate, public serving propensities for faster routings, better equipment, lower costing, greater responsiveness to shippers, and greater reliability. The parade of developments continues: single source leasing, private carriers developing contract and common carrier capabilities, for-hire carriers finding ways to obsolete elements of private carriage, new shipper association activity, a burst of broker arrangements, vast broadening of the capabilities of contract carriage, and more.

But we cannot overemphasize that your revolution is only halfway home. Substantial rate bureau functions remain; paper churning licensing procedures remain though obviously irrelevant and useless; and as the canopy of excess of federal economic regulation is stripped away we can see more clearly a tangled underbrush of restrictive and inconsistent state regulatory licensing, registration and taxing procedures.

Nine years ago we testified before your Committee that collective carrier rate making was the single largest impediment to flexible, competitive transport pricing. Freer entry and trimming of rate bureau functions have diminished that impediment. But in our view a final legislative solution beneficial to the long run public interest requires that this monkey wrench be taken out of the transport market machinery. When the pricing cartels are put out of business, carriers will have even more pricing freedom and flexibility, and prices will more reliably and consistently reflect minimum profitable cost levels.

We are aware of consideration of trading off continuation of rate bureau functions for a period for complete economic deregulation in other respects. Though this well intentioned initiative could, as compared with no movement at all, advance cleaning the regulatory slate and opening the truck market, probably producing a short and long run plus in market efficiency, it is clearly a second best solution which would continue unnecessary and unjustified pricing distortions for a substantial period of time.

We suggest strongly that it is time to end the paper charade surrounding motor carrier market entry. The ease with which fitness and public purpose showings can be made makes apparent that the time has come for either no licensing or a much abbreviated showing of insurance and of lack of a criminal record which would indicate disqualification for handling people's goods. There should no longer be even any pretense of an adjudicative proceeding, with long notice periods and certificate issuance delays, except possibly where consumer fraud or criminal record issues might be raised. And this could be handled after issuance of a license, if licenses were issued, as in the administration of the Perishable Agricultural Commodities Act.

We would urge upon you that the Federal Government should exert some leadership in encouraging states to reduce restrictive economic regulation of trucking, and in harmonizing inconsistent state truck taxation and licensing processes. This might be done by providing the Department of Transportation funds and a mandate to disseminate to states data on the premises for and results of truck deregulation at the federal level, and perhaps to engage in drafting with a committee of state representatives a model uniform state law relating to the economic regulation of motor carriage which would be accompanies by an explanatory report.

The Department of Transportation's effort gently to encourage states to streamline, harmonize and simplify state truck taxation and registration should be commended and supported. But we should consider carefully whether more can be done. The Business Council expects to be examining these issues, with concerned trucking companies, in the months ahead.

As to "oversight" questions concerning how well the Interstate Commerce Commission has played its role in motor carrier transport, we think the Commission has thus far attempted to fulfill the gist of its 1980 mandate. The nation would have lost much of the benefit of your 1980 legislative decisions had the Commission not demonstrated the courage and imagination substantially to free the private carrier, broker and contract carrier segments, allow greater pricing flexibility for common carriers, recognize that certificates should be broad and flexible, recognized that a showing of public purpose can be and should be simple and straightforward, and perceive that arguments against market entry presented it were merely rehashes of arguments found wanting in Congress. The Commission should be encouraged to mount further deregulatory initiatives. But the Commission can best be encouraged to further progress, and best be preserved from succumbing to deadening status-quo and self-preservation tendencies, by further determined Congressional leadership in the direction of shedding all economic regulation of interstate motor carriage.

The 1980 legislative initiative has been vindicated in the responses of shippers and carriers to the challenges of the post-1980 transport world. Both shipper and carrier sectors have demonstrated that they do indeed contain the imagination, flexibility and thrust to adapt successfully and innovatively to a more competitive, more cost conscious, and more rigorous transport market. We believe that many carriers have all but written off the parochial regulatory protections once jealously guarded. We hope and expect that some carriers will join in a Business Council Task Force oriented to redirecting shipper and carrier energies toward objectives of mutual and national advantage. These objectives include finishing the task of eliminating unnecessary federal regulatory superstruture, eliminating unnecessary state economic regulation, and encouraging streamlined state registration and taxing systems which facilitate life-giving commerce rather than impeding it.

Though your Committee apparently intends to focus on rail transport issues next year rather than in your hearing of this week, we do commend to you a few preliminary observations. We think the Conrail sale could have major impacts on rail market structure and practice, and the terms of that sale should be scrutinized and perhaps altered to seek to enhance the quantity and quality of rail competition in coming decades.

As to regulatory issues, we think the 1976 and 1980 legislation have been enormously useful in freeing up the railroad market, allowing railroads better returns, shippers better conceived and adapted price/service packages, and the nation a more vigorous commerce. In particular, the Commission's courageous freeing of piggyback transport has demonstrated that the rail system is capable of considerable dynamism. Old fashioned protections of rail investments by restricted pricing and service have collapsed in this sector. New fields of commercial and industrial grain are waving to rail-truck service. Shipper managements no longer have to follow canoe routes, port-river-valley confluences, horseshoe curve paths to get goods to market. They leap over such barriers by mode selection, by equipment choice, and by contractual device.

But as you know the shipper community is visibly apprehensive about continuing tendencies to reduce the number of sellers in an already small-numbers rail market. The concerned community—shippers, carriers, government agencies, economic thinkers—have yet to achieve consensus on ways of opening access to competitive entities and operations in the rail system. We think both more facts and analysis concerning the quantity of potential rail market power and more penetrating economic insights concerning means of making markets competitive are required here. Perhaps your committee will be forced to some decisions which compromise our preference for private sector decisionmaking in some respects to encourage such decentralized decisionmaking in other respects.

In sum, we believe the Congressional decision to set out on "deregulatory" regulatory reform in 1976 and 1980 have been enormously successful, producing great gains for the nation. Further progress seems to require a steadily improving grasp of the premises underlying those decisions, foresight, and determination to forge ahead. If our intellects and political courage flag now, we will lose further great potentials, and stunt the nation's growth.

We believe these views are not, on the whole, inconsistent with your thinking, as demonstrated by your legislative acts to date. We will strive to be of any assistance we might to your efforts along the lines here briefly discussed.

With regards,

HOWARD M. JONES,
Chairman.

American Retail Federation,
Washington, DC, September 25, 1984.

Senator Robert Packwood,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator: The American Retail Federation would like to submit the following comments expressing its views of the need for further changing the regulation of motor common carriers. The thrust of our position is that in lieu of regulation, the marketplace, as in the retail industry, will be freed so that it will determine motor carrier prices. We are generally pleased with the results of the Motor Carrier Act of 1980, but do believe the antitrust immunity currently accorded motor common carriers acts to effectively inhibit competition, and result in excessive price increases.

The American Retail Federation is a national association of the retail industry; its membership consisting of 30 national retail associations and 50 state-wide associations of retailers, as well as corporate members. The individual retail firms represented in ARF's constituent membership include all branches of the retail industry and utilize all modes of for-hire transportation and are substantial users of transportation via motor common carrier. The membership includes not only the larger retailers, but also the small retailers located throughout the country.

The American Retail Federation policy concerning antitrust immunity states: "There should be no statutory immunity from antitrust laws for any carrier or shipper. The antitrust laws should apply equally to transportation companies as they do to other businesses in the marketplace."

Our policies also provide that there should be no general rate activity. Consistent with our position that carriers should not be treated any differently than retailers, the policies further stipulate: "The normal business laws applicable to business functions should govern transportation activities."

The American Retail Federation has expressed its concern with collectively established general rate increases in a number of Petitions for Investigation and Suspension filed with the ICC citing the discriminatory treatment of small shipments as opposed to the preferential handling accorded larger shipments. Despite the objections of ARF, and others, general increases inimical to small shipments have repeatedly been permitted to become effective.

Prior to the Motor Carrier Act of 1980, retailers, as well as other shippers were faced with increases in minimum charges and rates for small shipments disproportionate to their increases in expense. Even though our review standard is one of reasonableness, nevertheless, ARF was constrained to object to a number of these proposals. Although the Commission did not favorably consider all of our objections, in 1979 and 1980, it did respond affirmatively to fully 65 percent of our requests. In 1981, positive responses to our request for ICC intervention declined to a rate of only 33 percent. In 1982 and 1983, our filing of I & S Petitions proved totally unrewarding—the success rate falling all the way to zero. (Our experience was not unique. The National Industrial Transportation League also reported a zero success rate for 1983.)

Because ARF has continued to review and test general rate increases by the same standard of reasonableness and filed petitions with the same restraint which always characterized its participation before the Commission, we can only conclude it is the ICC which has altered its standards. Thus retailers are in the unenviable position of having all of the worst of the situation. On the one hand carriers, enjoying antitrust immunity, are free to collectively establish and publish rate increases which we believe to be unreasonable. On the other hand, the Commission is failing to meet its obligation to regulate and protect small shipments from unreasonable and disproportionate rate increases. In recognition of the futility of seeking ICC intervention, ARF adopted a position of abstaining from submitting comments in connection with the April 1, 1984 round of general rate increases. In its March 13, 1984 letter to the Commission, ARF stated that this position did not reflect any lessening or lack of interest, but reflected our perception of an unresponsive regulatory environment which erroneously equates collective rates as the result of marketplace competition.

It is the position of retailers that: collective ratemaking has produced unreasonable rates; the ICC's nonintervention policy does not reflect a competitive marketplace; regulatory efforts to develop and assign costs are unnecessary; and the marketplace is the proper forum for resolution of costing and pricing issues.

Retailers believe the marketplace, not regulation, should be relied upon to produce the proper motor carrier pricing answers. Accordingly, consistent with our policies, we advocate the removal of antitrust immunity. In Ex Parte No. MC-172, Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments, the Federation supported the removal of antitrust immunity for shipments of less than 1,000 pounds in our statement before the Interstate Commerce Commission. The Commission's decision is disappointing, and indicates that Congressional action is the proper vehicle for attainment of our objective. While we seek the elimination of antitrust immunity, as we told the ICC, we would however, as a first step, welcome the limited curtailment of immunity since the preponderance of retail shipments are made in smaller, less-than-truckload quantities.

The American Retail Federation respectfully urges the Committee to favorably consider our position, and further amend the Interstate Commerce Act by eliminating antitrust immunity for motor common carriers.

Sincerely,

WILLIAM KAY DAINES,
Executive Vice President.

TRANSPORTATION LAWYERS ASSOCIATION,
September 26, 1984.

Hon. BOB PACKWOOD,
Chairman, Senate Committee on Commerce, Science, and Transportation, Hart Office Building, Washington, DC.

DEAR CHAIRMAN PACKWOOD: We appreciate the willingness of you and your staff to hold open the record in the above hearings for receipt of additional statements from interested persons and organizations. Please accept this letter as the statement of the Transportation Lawyers Association (TLA).

Our organization, formerly the Motor Carrier Lawyers Association, has testified in past oversight hearings. As you may recall from those occasions, we are a specialized bar association with approximately 600 members nationwide. Our members have day-to-day, hands-on experience in representing motor carriers—and, increasingly, other modes—as they attempt to adjust to today's regulatory environment.

Our primary reason for participating in these hearings is not to debate the question of whether the Motor Carrier Act of 1980 (MCA) was a wise piece of legislation, or how it should be amended if at all. Nor do we seek at this time to debate the merits of motor carrier regulation in the abstract. Rather, we wish to point out the continuing dilemma faced by our members and their clients: how should a law-abiding carrier operate in today's environment, where rules relating to entry, mergers, pricing and fitness remain on the books but go virtually unenforced by the Interstate Commerce Commission (ICC) and unobserved by large segments of the industry?

This year, as last, the ICC continues to grant operating authority to virtually all comers, with little or no scrutiny of operational or safety fitness. It continues to abdicate virtually all of its remaining statutory responsibility in the motor-carrier pricing area. While it probably was to be expected that a majority of post-MCA licensing applications and pricing actions would receive routine agency approval, something must be wrong when no such application has been denied on public-convenience-and-necessity grounds, nor any such rate action successfully protested, within human memory. There may be some merit to the concept of "regulation by exception," but what we have today is more like deregulation without exception—and by bureaucratic fiat.

This is not to say that we see no rays of hope. The ICC's recent rediscovery of the letter and spirit of the Government in the Sunshine Act is one. Another is its recent recognition, on at least two occasions, that the MCA did not give it carte blanche to adopt any and all proposals that might be described as deregulatory. We refer to the Commission's decision in Ex Parte MC-172 not to administratively abolish collective ratemaking by restricting it to shipmenits heavier than 1,000 pounds, and to its decision in Ex Parte 55 (Sub-No. 57) not to exempt in advance every motor carrier merger. The latter action would have created a total regulatory vacuum with respect to limitation of market concentration in trucking. Our organization was delighted to find itself allied with the Departments of Justice and Transportation in that proceeding, where we helped to persuade the ICC that such a regulatory vacuum was repugnant to Congressional intent.

Despite these rays of hope, the ICC's trivialization of its core functions in the motor carrier entry, fitness/safety and pricing areas continues unabated, and the effects of this administrative deregulation deserve more detailed scrutiny than most witnesses attempted at the September 18 oversight hearing. We sympathize with the severe pre-adjournment time constraints faced by the Committee in scheduling that session. Nevertheless, we hope that the planners of the fifth and final Senate oversight hearing next year will allocate sufficient time for exploration of at least the following questions, in addition to those discussed above:

(1) Has freer entry really brought any substantial influx of new entrepreneurial talent into the trucking industry? In the less-than-truckload (LTL) general freight segment, it seems clear from the September 18 testimony by ICC Chairman Taylor, as well as from the statement of Mr. Harkins for the National Motor Freight Traffic Association, that there has actually been mass exist (through bankruptcies) and only one significant entrant (Leaseway). In the household-goods segment (which is governed by the MCA entry provisions), the Household Goods Carriers' Bureau (HGCB) believes more carriers have exited than entered since 1980.[1] While the ICC extols the supposed entry of 13,000 new motor carriers in the 1980-83 period,[2] the agency says nothing about the thousands—yes, thousands—that apparently are exiting each year. We have informally surveyed six randomly selected sample weeks of ICC Registers to ascertain how many involuntary authority revocation proceedings are being opened under 49 U.S.C. 10925(b)(1) against carriers who have failed to maintain required insurance and process-agent filings. The failure to comply with these basic requirements is considered a fairly reliable indicator that the involved carrier is (or shortly will be) out of business. The following numbers of revocation cases were opened in our sample weeks:

March 19-23	26
April 23-27	51
May 7-11	60
July 9-13	24
August 13-17	53
September 10-14	14
Total	228
Average per week	38

On an annualized basis, therefore, the average number of revocation cases initiated approaches 2,000, not counting the many voluntary revocations under 49 U.S.C. 10925(b). Given this staggering exit rate, it is fair to ask whether the ICC's entry policies have produced anything except a "revolving door" through which underfinanced, unstable carriers continually enter and exit, to no one's lasting benefit.

(2) Is the motor carrier industry really more competitive today, or less so? At least with respect to the essential less-than-truckload service provided by the regulated truckers, the increasing level of market concentration documented in the Harkins statement, supra, appears to confound the conventional wisdom that trucking is a naturally competitive industry.

(3) How broad and deep is the apparent economic recovery of the trucking industry portrayed in the ICC's testimony? Again the Harkins statement before your committee suggests that this "recovery" is neither broad nor deep. If the "rich" in this industry are getting a lot richer while the "poor" are deriving little benefit from the economic recovery, the average economic performance of the industry may be improving but its competitiveness certainly is not.

(4) If ICC regulation of the trucking industry is to wither into disuse, what other types of regulation will take its place and at what cost? Your Committee should take little comfort from the possibility that creative lawyers and courts might be able to devise judicial remedies for aggrieved shippers and carriers no longer able to expect ICC relief. Our overburdened court system almost surely would not be able to provide recourse as quickly and economically as can an expert regulatory agency not bound by judicial procedures.[3]

(5) What conclusion should be drawn from the survey recently published by our organization's State Regulation Committee, and discussed by several witnesses on September 18, to the effect that 44 States still regulate intrastate trucking to a substantially greater degree than the ICC regulates interstate markets? Is it proper to conclude from this, as did several witnesses last week, that the States should be coerced into alignment with Federal policy in this area? Or is it possible that the States are more closely attuned to the desires of smaller communities and shippers regarding the regulation of motor carriers? Is it possible that the maintenance of

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[1] Statement of HGCB at your Committee's household goods oversight hearings (September 25, 1984), at 7-8.

[2] ICC Annual Report to Congress (April 4, 1984), at 16.

[3] *See*, generally, Derek C. Bok, "A Flawed System" (Report of the President to the Board of Overseers, Harvard University, April 1, 1983).

state regulation has helped to limit deterioration of small-community trucking service since 1980?

Because of the importance of building a complete record at the fifth and final statutory oversight hearing next year, it is our hope that there will be ample prior notice and an ample time allotment for that hearing—in contrast to the situation this year when our September 7 inquiry to the staff revealed that the oral witness list was already closed, five days before the time, date and place of the hearing were publicly announced. Again, we recognize that scheduling problems like this do arise as a legislative session draws to a close. We just hope the issue can be revisited more thoroughly next year by a broader spectrum of witnesses.

Respectfully submitted,

MARK J. ANDREWS,
Legislative Committee Chairman.

STATEMENT OF RITA BONTZ, DEPUTY DIRECTOR, TRUCKERS ACTION CONFERENCE

We appreciate the opportunity to furnish the Committee with our views on the impact of the Motor Carrier Act of 1980. Our statement reflects the views of both the Truckers Action Conference and the Maryland Independent Truckers and Drivers Association.

Our two organizations are not newcomers to the discussion of regulating the trucking industry. When Congress began holding hearings on proposed regulatory reform of the industry, we asked that it consider only those changes which would eliminate the burdensome and capricious regulations. We asked the Congress to keep the trucking industry strong through appropriate regulation.

We expressed our fears saying that if deregulation—even partial deregulation—were to occur, ratecutting would abound and that many trucking companies—big and small alike—would not be able to survice. We said that experienced truckers who had served consumers so well for so long would be driven out of business and that they would be replaced by inexperienced, unqualified drivers who would jeopardize safety on the Nation's highways. We feared that as a result of deregulation, a few companies would be able to swallow smaller companies, thereby becoming so large that they would be able to dictate price and service throughout the industry.

We have repeatedly expressed our concerns in hearings before the Senate and the House of Representatives. We are sorry to report that each of the undesirable effects we predicted is with us today.

The Motor Carrier Act was to improve the industry by making it more competitive. But lack of competition has not been a problem in the trucking industry. The growth of the industry over the past 50 years is proof of that competition. If there had not been competition for good services at reasonable prices, the trucking industry would not have developed as it did.

The ease of entry provision in the Motor Carrier Act did bring hundreds of new "would be" entrepreneurs into the industry. Perhaps it was because there seems to be a mystique about trucking. It must appear to some people that trucking is a place to make big money fast. This is not true. Even under the best of conditions—and certainly not in the midst of a major economic recession—successful trucking requires the most astute managerial skills and at least some experience in the industry.

In order to get business, these newcomers were willing to drop freight rates to below realistic levels. They could not survive long at that. Many of them stayed in business just long enough to cause chaos in the industry and tragedy on the highways.

The ease of entry provision was supposed to be a great boon to independent truckers. It would bring us true "independence." But how did the owner-operators react to and fare with the ease of entry? Did they flock to the ICC for operating authority—even with the reduced filing fees? No. Some did and some are still applying for authority, but it is certainly not happening in great numbers.

Most truck owner-operators prefer to lease to a regulated carrier. But some of those who did strike out on their own with operating authority have not found it an easy road.

To give you just one example: a member of the Maryland Independent Truckers and Drivers Association applied for and received his operating authority in 1982. This man is a trucker with years of experience. He has a sterling reputation among the carriers he has worked for and with the shippers, as well. He has sound finances and good equipment. Getting the operating authority, meeting the various state requirements, obtaining the insurance and so on, was relatively easy. He had the support of a shipper and the trucker was optimistic. Once he got his authority, the shipper began to pressure for kickbacks, discounted rates, and so on. The trucker found another shipper; the same situation arose. And so it went. He went back to hauling freight for regulated carriers.

It is not easy for a one-truck operator to find work with a shipper. Most shippers are looking for truckers with equipment in sufficient amounts to meeting their shipping needs. And most shippers are looking for an established, reliable trucking company that can guarantee delivery and service. They are apprehensive about hiring a lone trucker or several lone truckers.

Our two associations are trying to foster and encourage the growth of single source leasing opportunities for our members. We recognize and appreciate the additional option provided through the recent single source leasing regulations. We have had the Interstate Commerce Commission's Small Business Assistance Office conduct two seminars on the subject since the regulations went into effect in April of this year. Our seminars are well attended by truckers; several shippers have attended as well. But there is a great deal of apprehension on both sides—the shippers and the truckers. We are modestly optimistic that single source leasing will be an acceptable option for some truckers and some shippers. We do not predict that it will have widespread use as far as independent truckers are concerned. While single source leasing was intended to help the owner-operators, it has turned into a bonanza for the big truck leasing companies.

We believe that the trucking industry can survive and that it can regain its rightful place in the surface transportation system if these three things would occur:

1. The Congress should refrain from passing any more legislation to further deregulate the industry.
2. The Congress should appropriate enough money to the ICC to allow it to enforce the existing laws and regulations.
3. The ICC should stop taking action on its own to further deregulate trucking.

We hope that our words, and the words from other parts of the trucking industry that advocate appropriate regulation in the industry, will not go unheeded. We believe that the Congress is serious in its intent to improve the trucking industry but we do wish that it would heed the words of persons with the "hands on" experience.

STATEMENT OF DENIS R. ZEGAR, VICE PRESIDENT FOR GOVERNMENT SERVICES, NATIONAL-AMERICAN WHOLESALE GROCERS' ASSOCIATION

Mr. Chairman and Members of the Subcommittee on Surface Transportation: My name is Denis R. Zegar and I am Vice President for Government Services of the National-American Wholesale Grocers' Association, commonly referred to as "NAWGA." I very much welcome this opportunity to submit this written statement for the official record concerning the Subcommittee's oversight hearings on the Motor Carrier Act of 1980.

By way of background, NAWGA is a national trade association which represents nearly 400 independent wholesale grocers and food service distributors who employ over 250,000 employees. These member companies, both large and small, supply grocery products and provide a wide array of services to retail grocery stores, hospitals, schools, restaurants, and other food service establishments throughout the United States.

Marketing products from over 800 separate distribution centers, NAWGA member firms account for nearly $50 billion of the nation's grocery product volume and 1/3 of the grocery supplies distributed nationally. NAWGA's food service division, the International Foodservice Distributions' Association (IFDA), represents member firms that sell annually over $10 billion in food and related products to the institutional, away-from-home food service market.

NAWGA actively participated before Congress and the various subcommittees concerning the development of the Motor Carrier Act of 1980. NAWGA continues to play an important role in monitoring major transportation developments and ensuring that the views of its member organizations are adequately presented, especially on transportation matters concerning private carriers.

NAWGA member firms are wholesale grocers and food service distributors. They maintain transportation operations which are largely incidental to their grocery and food service business. Many member firms maintain extensive private carrier operations. A private carrier is defined as an entity which transports its own goods in furtherance of its primary non-transportation business. Other members rely heavily on the services of regulated common and/or contract carriers. In addition, some members obtain regulated for-hire operating authority from the Interstate

Commerce Commission ("ICC") to supplement their existing private carrier operations. As a result of this diversity in its membership, NAWGA is able to present testimony which represents views held by (1) private carriers; (2) private carriers who have obtained ICC regulated authority to operate as a common or contract carrier; and (3) shippers who utilize the services of ICC regulated common and/or contract carriers.

NAWGA submits that the overwhelming conclusion of its membership is that the Motor Carrier Act of 1980 is an effective and responsive piece of legislation. It has already bestowed substantial benefits on the wholesale grocery industry and the public.

THE NATIONAL TRANSPORTATION POLICY, AS REDEFINED BY THE MOTOR CARRIER ACT OF 1980, HAS BEEN THE UNDERLYING MOTIVATION FOR THE ADOPTION OF SEVERAL NOTEWORTHY ICC PROCEEDINGS

The Motor Carrier Act of 1980 redefined the National Transportation Policy by shifting the emphasis from the protectionist policies of the past to the laudable goals of improving operational efficiencies, increasing competition in the motor carrier industry and stimulating the most productive use of equipment and energy resources. With this new direction, the Commission has been pursuing a more balanced approach to the entire transportation industry. This balanced approach can be seen in several proceedings. In the interest of brevity, we will only discuss two landmark proceedings.

TRIP LEASING

In Ex Parte No. MC-43 (Sub-No. 12), Leasing Rules Modification, 132 M.C.C. 927 (1982), the Commission decided to modify its existing leasing regulations to allow private carrier (NAWGA members) to improve their equipment utilization and conserve energy resources by trip leasing drivers and vehicles to regulated carriers. Trip leasing is a term used to describe the leasing of a truck with a driver by one carrier to another on a single trip basis for a duration of less than 30 days. Although trip leasing had been widely employed by regulated carriers long before the Commission's decision, private carriers were prohibited from improving their transportation operations by trip leasing vehicles and drivers.

The Motor Carrier Act of 1980 forced the Commission to take a closer look at its leasing rules to ensure that they are consistent with the new National Transportation Policy and the public interest. The restriction against private carrier trip leasing could not pass scrutiny under the new transportation policy. The Commission's trip leasing decision was affirmed by the United States Court of Appeals for the 11th Circuit in *Osborne Truck Line, Inc.* v. *The Interstate Commerce Commission,* ——— F.2d ——— (1983).

SINGLE-SOURCE LEASING

The second landmark proceeding which demonstrates the Commission's balanced approach to the transportation industry is Ex Parte MC-122 (Sub-No. 2), Lease of Equipment and Drivers to Private Carriers, 132 M.C.C. 756 (1982). In this proceeding, commonly referred to as "single-source leasing", the Commission removed the restrictions which prevented private carriers (NAWGA members) from utilizing owner-operators or other single-source lessors of drivers and equipment as independent contractors. The Commission noted that its regulatory responsibility mandated that it reevaluate its leasing rules to determine that said rules are consistent with the new transportation policy.

Trip leasing and single source leasing are only two of the many ICC initiatives designed to improve energy efficiency and competition in the motor carrier industry. Private carriers, regulated carriers, shippers and the public are already reaping the benefits of the Motor Carrier Act of 1980 and the ICC initiatives which have been instituted as a result of the Act.

SHORT TERM LEASING BETWEEN NON-REGULATED ENTITIES

Since trip leasing between regulated carriers and between private carriers and regulated carriers is consistent with the new National Transportation Policy, then trip leasing between non-regulated entities should also be consistent with the new transportation policy. Trip leasing between non-regulated entities is loosely referred to as private carrier to private carrier trip leasing. However, the phrase "private carrier to private carrier trip leasing" embraces leasing arrangements between all non-regulated entities, and not simply private carriers.

NAWGA has requested a declaratory order from the Commission acknowledging the right of non-regulated entities to trip lease drivers and vehicles to and from other non-regulated entities. There can be little doubt that the Commission should give its official sanction to trip leasing between non-regulated entities, such as NAWGA members. Action from the ICC is expected next year.

BACKHAUL ALLOWANCES

Another area which has yielded significant benefits to the grocery industry and the public-at-large is Section 8 of the Motor Carrier Act. Section 8(a) permits sellers of food and grocery products, who sell under a uniform zone delivered price system, to reduce the delivered price of their products by an amount that does not exceed the actual transportation cost if the purchaser picks up the products himself.

Prior to the Motor Carrier Act of 1980, many NAWGA member firms had no access to backhaul programs because of seller concerns about the federal antitrust laws. As a result of the Motor Carrier Act, many firms have instituted backhaul procedures. These seller initiated backhaul programs allow NAWGA members, as food wholesalers, to utilize their private fleets much more efficiently and, thereby minimize the number of empty miles.

It is common practice among NAWGA members to utilize their fleets to pick up food and grocery products from suppliers that have backhaul programs. NAWGA members are able to have their trucks return to their points of orgin with full loads and receive compensation in the form of backhaul allowances. In addition, when it is not possible for a member to utilize its private fleet, it can utilize the services of a regulated carrier for the purposes of picking up goods from its suppliers. In short, the backhaul allowance concept, as implemented, has resulted in an overall benefit to the grocery industry and to the public.

BACKHAUL CLEARING HOUSE

In an effort to help its members, NAWGA has implemented a backhaul clearing house. This is a computer-oriented program which is now underway. In essence, it permits NAWGA members to achieve better traffic flow by making their transportation needs known to other members. NAWGA members can use this clearing house to identify transportation opportunities. This is an exciting concept which NAWGA believes will further reduce empty mileage. Without the Motor Carrier Act of 1980, this useful concept would not have been implemented.

THE NEED FOR FEDERAL PREEMPTION OF BURDENSOME AND INCONSISTENT STATE LAWS

Many of the laudable transportation goals contained in the Motor Carrier Act of 1980 are compromised at the state level. This is due to a conflicting pathwork of state laws. The net effect of the conflicting and often times burdensome state laws is that motor carriers are unable to fully exercise the productivity options embodied in the Motor Carrier Act and recent ICC decisions. Thus, despite significant federal initiatives designed to improve the motor carrier industry, NAWGA member firms and other motor carriers face substantial barriers on the state level with respect to exercising similar initiatives. For example, NAWGA member firms have encountered substantial state barriers with respect to conducting Compensated Intercorporate Hauling operations (transportation between a parent and its wholly-owned subsidiary), hauling exempt agricultural commodities, obtaining supplemental intrastate common or contract carrier authority, participating in trip leasing and single-source leasing arrangements to name a few.

The motor industry should not be neatly divided into two functionally independent segments—an interstate segment and an intrastate segment. NAWGA submits that the health of the industry as a whole depends on the degree and type of state and federal regulations. For example, a carrier may be able to improve his transportation operations by conducting some intrastate movements or exercising one of the federal initiatives on an intrastate level. However, due to the restrictive state laws, the carrier may have to refrain from intrastate activities. Further, many motor carriers currently maintain both interstate and intrastate operations.

Very little is accomplished if burdensome federal laws are replaced by conflicting state initiatives. Therefore, this body must review concerns associated with intrastate motor carrier operations. The substantially improved interstate conditions serve to highlight the restrictive and conflicting state laws. Therefore, NAWGA supports preemption of conflicting state laws.

NAWGA recognizes that there may be jurisdictional issues associated with federal authority to regulate purely intrastate activities. NAWGA submits, however, that this body should consider ways to reduce the severity of the often burdensome and inconsistent state laws particularly as to fleets that are used dually for intrastate and interstate movements. Federal preemption appears to be the most productive option to carrying out the goals of the Motor Carrier Act in light of the pathwork of conflicting state laws. This body should consider broader legislative initiatives which provide a uniform approach to federal and state laws. Without federal preemption, many of the benefits of the Motor Carrier Act are being compromised on the state level. The health of the motor carrier industry depends on reasonable and consistent state and federal laws.

CONGRESS SHOULD CONSIDER THE COMPLETE ELIMINATION OF ANTITRUST IMMUNITY

Although the Interstate Commerce Commission is vested with broad authority to regulate the motor carrier industry in accordance with the National Transportation Policy, the Commission may lack the regulatory authority or direction necessary to eliminate antitrust immunity for joint line collective rate making. Recently, the Commission instituted a proceeding styled "Ex Parte No. MC-172" to review the possibility of eliminating antitrust immunity for shipments of 1,000 pounds or less. Although the proposal was denied by the Commission after severe criticism from individual members of Congress, NAWGA supports the withdrawal by appropriate legislation of all antitrust immunity for collective rate making activities by motor carriers of property.

The early evolution of collective rate making took place in an environment within which the role of government and industry regulations were growing dramatically. Recent legislative and regulatory developments contrast sharply with that era. The emphasis today is on less regulation and more competition. Antitrust immunity for collective rate making conflicts sharply with the National Transportation Policy.

NAWGA submits that the antitrust immunity for collective rate making has outlived its regulatory usefulness, and is inconsistent with the National Transportation Policy. It is, therefore, NAWGA's conclusion that this body should provide the Commission with some additional regulatory direction on this issue.

CONCLUSION

The Motor Carrier Act of 1980 has helped to increase operating efficiencies and competition in the transportation industry. The National Transportation Policy has enabled the ICC to institute and adopt several proceedings which have greatly improved the transportation industry. Indeed, we are beginning to see a stronger and more productive transportation industry. The Motor Carrier Act of 1980 has the whole-hearted support of NAWGA member firms. There are, however, a few areas this body should consider, namely: reducing burdensome state regulations and eliminating all residual antitrust immunity for collective rate making.

On behalf of the National-American Wholesale Grocers' Association, I thank this body for the opportunity to present this written testimony.

STATEMENT OF PHILIP HASELTINE, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION

Mr. Chairman, thank you for inviting the Department to submit comments for the record discussing the Administration's views on economic regulation of motor carriers.

The Motor Carrier Act of 1980 (MCA) has now been in effect for more than four years. For much of that time, the trucking industry was burdened by weak demand for its services. However, even during difficult times, the industry as a whole continued to provide good service to shippers and receivers throughout the Nation.

Overall, there is an enormous body of evidence that the Motor Carrier Act of 1980 has had significant, positive effects on the trucking industry. Not all carriers have been able to benefit, and the depth of the recent recession caused substantial traffic declines and financial losses for much of the industry in 1981 and 1982. But most carriers have made the necessary adjustments, and for some 1983 was their best year ever.

With the freer entry permitted under deregulation, there are now more trucking firms in business than ever before—from 18,000 in 1980 to 33,000 in 1983. New price and service options have been introduced. Established carriers have become more efficient and innovative: for example, restructuring routes, reducing empty backhauls, providing simpler rate structures, and offering shippers incentives to consolidate freight into larger shipments.

Shippers now play a far more active role in the distribution process. They have a hand in negotiating rates and a greater choice in selecting carriers. They can consolidate shipments themselves or through third parties, contract for particular services, and work with carriers to design transportation services best meeting their overall needs. Brokers and shipper associations are consolidating an increasing number of less-than-truckload shipments, "topping off" loads, and otherwise helping the trucking industry to operate efficiently.

Now that the economy is once again strong and growing, motor carrier tonnage is improving, profits are rebounding strongly, and the quality of service remains good.

ICC data for the 100 largest motor carriers of property (excluding the United Parcel Service companies) show tonnage rose slightly for 1983 as a whole, with a more strongly positive trend in the fourth quarter. However, net operating income more than tripled during 1983, increasing from $216 million in 1982 to $660 million in 1983. Other measures of carriers' financial condition rebounded even more strongly: net income soared from $77 million in 1982 to $360 million in 1983, and average return on equity increased from 2.6 percent to 12.4 percent.

Moreover, this strongly positive trend continued during the first quarter of 1984. First quarter operating revenues rose 13.7 percent, compared to the first quarter of 1983. In addition, net operating income increased by 15.3 percent; and tonnage was 9.6 percent higher.

Finally, as the Motor Carrier Act enters into its fifth year, I would like to share with you the results of our most recent studies of the impact of regulatory reform on various segments of the trucking industry. Research concerning small (i.e., Class III) carriers, minority carriers, service to small communities, and the impact of intrastate trucking deregulation demonstrates that reform continues to work well.

CLASS III CARRIER STUDY

Very little information was available until recently concerning the smallest (Class III) motor carriers, i.e., those with less than $1 million in annual revenues. These carriers represent the vast majority of all ICC-regulated carriers, although they account for only a small percentage of total industry revenues. Although information was lacking, it was thought by many that the Class III carriers had done poorly as a result of deregulation and the recession. Small carriers were often perceived as burdened with debt, less profitable than larger carriers, losing more traffic during the recession than their larger rivals, heavily dependent on traffic interlined from other carriers, and impacted more heavily by deregulation and certain remaining government regulations.

However, the survey of nearly 1200 randomly selected Class III carriers recently undertaken for DOT shows that conditions among these carriers are better than most had alleged. Even between 1980 and 1982, when the economy was very weak, the majority of small carriers surveyed reported no significant change in revenues or assets; indeed, more reported increases than reported decreases. Over 26 percent of the carriers reported increased revenues, while only about 10 percent reported decreases. Similarly, 12 percent of the carriers surveyed showed increases in total assets, compared to about 5 percent reporting decreased assets. The percentages of Class III carriers reporting increases or decreases in the total number of shipments handled were fairly similar, with nearly 42 percent reporting increases and about 37 percent noting decreases.

Although the data are not directly comparable, the statistical series of operating and financial indicators maintained by the American Trucking Association for 161 large regular route common carriers suggest that between 1980 and 1982, small carriers, as a group, did somewhat better than did the larger carriers. For example, total revenues for the 161 large carriers fell from $13.8 billion to $12.9 billion between 1980 and 1982. During these same two years, operating income for this group of large carriers fell from about $502 million to $64 million.

As a group, the Class III carriers do not appear to have especially heavy levels of debt. Total reported debt averaged about $28,000 for carriers that obtained their first ICC authority before the Motor Carrier Act and about $49,000 for those carriers that entered the industry after the Act. The more recent entrants responding to the survey also tended to be slightly larger, in terms of numbers of employees and vehicles, than pre-MCA carriers. Although the surveyed carriers had increased the amount of interlining they did between 1980 and 1982, interlined freight remained of minor importance to total revenues overall. Interlined freight accounted for only 7.1 percent of total revenues for all Class III carriers reporting 1982 results.

In summary, while the recent recession appears to have caused financial hardship for many carriers of all sizes, we see no evidence from this survey that small (Class

III) carriers are doing worse than larger carriers. If anything, this study suggests that many of them have been successful in competing for traffic with their larger rivals.

MINORITY CARRIER STUDY

One of the purposes of the Motor Carrier Act of 1980 was to improve the opportunities for minority participation in the trucking industry. In order to assess the impact of the Act on minority trucking firms, the Department commissioned an in-depth study of eight minority motor carriers. Half of the case studies examined minority carriers that obtained their first ICC operating authority before the Act, and the other half examined carriers that were new entrants into regulated interstate trucking after the Act. Carriers' views about truck deregulation were not a criterion for their selection as study participants. Although we can't generalize the results from eight cases, the overall results of the study suggest that minority carriers *have* benefitted from the Act, particularly its eased entry provisions.

Since passage of the Act, the eight carriers studied have applied for a total of 21 new ICC operating authorities, all of which were granted. All of the eight carriers studied agreed that the Act had made entry into the interstate trucking industry easier, resulting in improved opportunities for minority participation.

With respect to their experiences between July 1980 and Fall 1983, four of the eight minority carriers reported that employment and revenues increased. Four carriers reported decreases or mixed results. These results seem relatively positive, given the very weak economic conditions that prevailed during most of this time period. Reported results with respect to profits were even more positive, with four carriers reporting increases, two showing no change, one noting mixed results, and only one carrier reporting a decrease.

When asked to name the greatest business difficulties facing their firms, the carriers differed in their responses. Problems mentioned most prominently were lack of access to financing, the weak economy, the comlexity of state licensing and taxes, and low rates. However, in spite of these difficulties, six out of eight carriers were optimistic about their future.

The majority of the surveyed carriers were small, five of them with revenues of less than $1 million. Like other small carriers, they did not handle much freight interlined from other carriers. Only the three household goods carriers in the group had interline agreements to enable them to share traffic with their parent van lines. Interestingly, all but one of the eight carriers stated that they actively solicit traffic to and from small communities. The one exception carries only government freight.

SMALL COMMUNITY SERVICE STUDY

The most recent phase of this study (1981–82) reaches essentially the same conclusions as the previous post-deregulation phase (1980–81): service quality and quantity has not diminished for the vast majority of the 474 rural shippers and receivers surveyed in this investigation. In fact, the number of competing carriers in rural areas has increased, on balance, since the passage of the Motor Carrier Act.

For most shippers, little has changed since the first phase of the study (1979–80): there is a heavy dependence on United Parcel Service for small package shipments; considerable use of private carriage; and generally acceptable levels of freight service available from a variety of ICC certificated carriers. Although rates have increased somewhat (for the typical rural shipper) and service frequency is somewhat lower (for about 20 percent of shippers and receivers), service quality and the level of competition among carriers are both higher. It should be noted that improvements in service quality and competition were reported much more often than deteriorations, regardless of the remoteness of the shipper's or receiver's location.

Overall, 96.3 percent of all respondents thought that postderegulation truck service was good or better than before. Moreover, shippers and receivers in very remote areas were as satisfied with their truck service as were small community respondents in more accessible areas: 97.3 percent of the really rural shippers and receivers—those more than 25 miles from an interstate highway—reported that overall service quality was as good or better than prederegulation service.

In general, shippers and receivers in the small communities surveyed continue to receive adequate truck service, with no respondent finding service unavailable.

INTRASTATE TRUCK DEREGULATION: FLORIDA

A multi-year study was undertaken for the Department to survey shippers, carriers, and private carriers in Florida and Arizona, in order to examine the effects of total intrastate truck deregulation in these two states. Although we have more years' data for Florida (which deregulated in 1980) than for Arizona (which deregulated in 1982), the overall results are remarkably similar.

The latest phase of the study shows that in early 1984, as in 1981 and 1982, shippers and receivers noted improvements in truck service resulting from the removal of all economic regulation of Florida's intrastate trucking in 1980. About 90 percent believed that postderegulation service was at least as good as before, with approximately 30 percent of the respondents noting improvements in service, and only about 10 percent citing decreases. Faster service and reduced difficulty in arranging truck transportation were reported about twice as often as slower service or increased difficulty.

A majority of all shipper/receivers (58 percent) perceived that deregulation had held down truck rates. Similarly, 53 percent of the respondents reported increased truck competition, while only 5 percent noted less competition.

The generally favorable results were noted by shippers and receivers in widely varying locations, including a large number of respondents from small communities. Not surprisingly, given their perceptions of the impact of deregulation on their truck service, the vast majority of respondents preferred deregulation to regulation.

As a group, shipper/receivers and private carriers were more favorably disposed toward deregulation than were for-hire carriers. Seventy-two percent of private carrier respondents expressed a preference for deregulation, but only 29 percent of for-hire carriers preferred deregulation.

INTRASTATE TRUCK DEREGULATION: ARIZONA

After approximately twenty months' experience with instrastate trucking deregulation in Arizona, shippers and receivers were very positive about the results. The vast majority of respondents (76 percent) noted increased competition, with only 11 percent citing less competition. Similarly, 48 percent faced an increased number of service options, while only 23 percent saw fewer options. No shipper or receiver reported that motor carrier service was unavailable.

Roughly half of all respondents felt that overall service quality had improved since deregulation, compared to only 8 percent noting service deteriorations. In addition, deregulation was widely believed to have had a moderating influence on rates. Fully half of all respondents felt that deregulation had held down rates, whereas only 10 percent believed it had resulted in higher rates.

As in Florida, it is not surprising that the shippers and receivers surveyed reported satisfaction with deregulation. A large majority (72 percent) preferred deregulation, while only 5 percent expressed a desire to return to regulation.

As a group, Arizona carriers were more enthusiastic about deregulation than were their Florida counterparts. A plurality—42 percent—expressed a preference for deregulation, while only 34 percent preferred regulation. The remaining carriers expressed no preference. Private carriers were not surveyed in Arizona, because it was felt that there were too few of them to yield a statistically valid sample.

SUMMARY

Many opponents of truck deregulation argued that passage of the Motor Carrier Act of 1980 woud result in poor service to shippers, with many residents of rural areas unable to obtain any service at all. These fears have been proven groundless, as truck service has remained good—even in remote areas—in spite of the effects of the recent recession.

Later, some opponents of reform argued that, as the economy improved, the deterioration in truck service would finally appear. Let me emphasize that, according to our most recent research, this potential decline in the quality and availability of truck service has *not* occurred. Small carriers and minority carriers appear to have weathered difficult economic conditions as well as, or better than, their larger rivals. Service to small and rural communities remains satisfactory, even in Florida and Arizona, both of which have removed all economic regulation from their intrastate trucking industries.

That concludes my statement for the record, Mr. Chairman. I look forward to working with you and the other Members of this Committee toward the very important goal of additional economic deregulation of the trucking industry.

STATEMENT OF WILLIAM J. AUGELLO, EXEC. DIR./GEN. COUNSEL SHIPPERS NATIONAL FREIGHT CLAIM COUNCIL, INC.

On behalf of the membership of the SNFCC, consisting of over 700 national corporations interested in the improvement and preservation of carrier liability standards and the reduction of loss and damage claims which amount to over one billion dollars a year, I wish to thank the Committee for this opportunity to address the liability problems arising from enactment of the Motor Carrier Act of 1980.

Our Council has presented testimony in previous Oversight Hearings held by this Committee in an effort to apprise Congress of the serious liability problems produced by the Motor Carrier Act of 1980. (See Statements of William J. Augello on behalf of SNFCC dated December 14, 1982 before this Committee, on the Motor Carrier Act of 1980, November 10, 1981 and July 9, 1981 before this Committee on the Staggers Act and Motor Carrier Act of 1980 respectively.)

Our Council has assessed the liability consequences of the various deregulation actions and proposals of Congress and the regulatory agencies to date and has formulated policies for all four modes of transportation. The annexed "white paper" is hereby tendered for your Committee's consideration.

Today, we wish to place special emphasis on a new problem created by the I.C.C.'s unwarranted extension of the special privilege granted by Congress to the railroad industry in the Staggers Act of 1980 to include "deductibles" in released rate agreements. A "deductible" is an amount, usually $100, $200 or $300, which the carrier will deduct from any claim payment due the claimant in return for a lower rate.

In brief, the I.C.C. decided that motor carriers, household goods carriers and freight forwarders may also incorporate "deductibles" in their rates, despite Congress' clear intent to limit their use of rail agreements.

A detailed explanation of the legislative history of deductibles and the litigation which resulted thereafter is annexed as Exhibit I hereto.

The end result of these developments is that *all* surface modes of carriage may presently use deductibles, a result clearly not intended by Congress.

Of greater significance, however, is the dangerous precedent which the I.C.C. has created, and which must be addressed by Congress. The Commission, in effect, is saying that, notwithstanding the fact that Congress grants a special privilege to one mode, in a sub-division of the U.S. Code which governs only that mode, the Commission may extend that privilege to other modes.

A recent decision of the U.S. Court of Appeals for the District of Columbia, in effect, held the Commission guilty of a similar violation of Congressional intent. In *Cross-Sound Ferry Services, Inc* v. *I.C.C.*, No. 83-2155, July 6, 1984, the Court of Appeals held that the I.C.C. improperly applied the standard of "representational points" in a water carrier application, a standard which is prescribed in Sec. 10922(e)(1)(C) for motor carriers, but which is not prescribed for water carriers in Sec. 10922(f). (See Footnote 2 in decision) This unlawful extension of the law to other modes is analogous to the I.C.C.'s decision to permit all surface carriers to use deductibles although only sub-section (c) of Section 10730 permits their use.

Similar gratuitous extensions of Congressional intent for one mode to other modes by the I.C.C. could undoubtedly be gleaned from the Commission's recent decisions. The point is that only Congress may change the law, and when the Commission is guilty in violating Congressional intent, Congress must take remedial action forthwith, lest the Commission's policies continue unbridled.

With respect to deductibles, the public interest clearly calls for an amendment to Sec. 10730 of 49 U.S.C. to provide that:

"Deductibles may not be incorporated in agreements between shippers and household goods carriers, motor carriers or freight forwarders."

We will reserve our right to address the propriety of permitting railroads to incorporate deductibles in their rate structures in Oversight Hearings on the Staggers Rail Act when they are next scheduled.

EXHIBIT I.—A CHRONOLOGICAL HISTORY OF THE INTRODUCTION OF "DEDUCTIBLES" INTO BAILMENT CONTRACTS

When Congress repealed the I.C.C.'s jurisdiction over the prior approval of released rate filings of motor carriers, it unwittingly created a situation which has resulted in the filing of insurance-type "deductible" clauses in contracts of carriage. However, this result could not have been foreseen by Congress: it was permitted to take place by the I.C.C.'s unwarranted interpretation of The Motor Carrier Act of 1980 and the improper imposition of its marketplace concepts which far exceed the Congressional intent.

The introduction of deductibles into motor carrier released rates which shall have disastrous consequences for the nation's commerce for decades to come, was made possible by the following events:

(1) In 1920, Congress enacted Section 20(11) of The Interstate Commerce Act (commonly known as the Carmack Amendment) prohibiting common carriers from limiting their liability against their negligent acts unless the I.C.C. approved a released rate offering a lower rate for limited liability. (See appendix A)

(2) On October 17, 1978, this section was recodified by Public Law 95-473, at 92 Stat. 1389 and 1453 without changing its substance. (See appendix B)

(3) On July 1, 1980, Congress eliminated the I.C.C.'s jurisdiction to approve motor common carrier released rates, but preserved that power with respect to household goods carriers and freight forwarders. Motor Carrier Act of 1980 Public Law 96-296, 94 Stat. 802 (See Appendix C, Section 10730(a) and (b))

(4) On October 14, 1980, Congress further revised Sec. 10730 by adding a new subsection for railroads, and introducing the concept of "deductibles" into railroads released rates. Staggers Rail Act of 1980, Public Law 96-448, 94 Stat. 1911 (See Appendix C, Section 10730(c))

(5) On March 3, 1980, a household goods carrier filed a released rate application which included a deductible provision. Docket No. FF-303, Interstate International, Inc., Used Household Goods. The I.C.C. allowed the rates to become effective over protests of our Council and other shipper groups to the effect that deductibles were authorized by Congress only in part (c) of Sec. 10730. That decision was appealed to The Second Circuit Court of Appeals. *Shippers National Freight Claim Council, et al.* v. *I.C.C. and U.S.*, No. 80-4243, Second Circuit Court of Appeals.

(6) On March 23, 1982, the I.C.C. issued a declaratory order to the effect that motor carriers (other than household goods carriers) may also include deductibles in their released rate agreements. Docket No. 38752, Petition for Declaratory Order On Deductibles in Household Good Released Rates. This issue was added to the appeal of the I.C.C.'s decision on household goods deductibles although no specific motor carriers released rate was filed at the time.

(7) On June 13, 1983, the I.C.C.'s decision was upheld by a 2-1 decision of the 2d Circuit Court of Appeals, with a separate dissenting opinion by Judge Pratt, 712 F2d 740. On June 18, 1984, the Supreme Court denied our petition for certiorari without opinion.

It is our council's position, as well as other shipper interests, that Congress did not intend motor carriers, freight forwarders or household goods carriers to be permitted to include deductibles in their released rate agreements with shippers. This position is founded on the following:

(a) The specific statutory terms used in 49 U.S.C. 10730(c) to authorize deductibles govern railroads only, and are not used in sub-sections (a) or (b) in connection with household goods or motor carriers, although all three sub-sections were modified or enacted between July and November 1980. This is a clear expression of congressional intent not to permit carriers other than railroads to use deductibles.

(b) The establishment of a maximum value was contemplated by Congress in enacting the Carmack Amendment, not a deductible, which is a minimum amount for which a carrier will acknowledge liability. This conclusion is evidenced by the phrase "not exceeding the value so declared or released" in the second proviso of Sec. 20(11) (See Appendix A) and the phrase "limited as to value" in Section 10730. (See Appendix C)

(c) No justification may be found in the legislative history of any of the 1980 deregulation acts to support a finding that Congress intended any mode of transportation other than railroads to utilize deductables in released rate agreements. The railroads were only granted this privilege in recognition of the dire financial condition of the industry. H. Rep. 96-1430, p. 79.

(d) No carrier of any type, for the past 60 years, has interpreted the Carmack Amendment or the common law as permitting deductibles in a bailment situation.

(e) Deductibles are inappropriate when the goods involved are transfered to the carrier for its safekeeping, since the owner relinquishes control over his goods to the carrier. On the other hand, deductibles are common in insurance contracts where the owner of the goods retains possession of his goods and weighs the risk of loss damage caused by his negligence against a lower or higher premium.

(f) Deductibles in a common carrier environment equates to a "license to steal". When the amount of the deductible in the bill of lading becomes known to employees physically handling a shipment, (such as usually occurs in a motor carrier movement, but not in a rail movement) theft and pilferage up to that amount will unquestionably proliferate. The reason is that no claim can be filed for losses under the amount of the deductible, no investigation will be conducted by the carrier, and the risk of detection and prosecution will be removed. Honest employees will soon join the ranks of professional thieves.

FREIGHT CLAIMS LIABILITY IN COMMON CARRIAGE—A GROWING PROBLEM FOR SHIPPERS SHIPPERS

What statutory protection exists today for shippers?—Almost 80 years ago, Congress enacted the Interstate Commerce Act which includes a provision known as the "Carmack Amendment" (now Sections 10730 and 11707 of 49 U.S.C.) to protect shippers and receivers of goods from carrier efforts to evade liability for loss, damage or delay to freight shipments in their custody. Since 1906, this law has provided the legislative cornerstone for a uniform system of full liability on all domestic common carrier shipments by railroads, motor carriers and freight forwarders.

The "Carmack Amendment", long since upheld by the United States Supreme Court, is founded on the common law theory of bailment by which the common carrier transporting such freight is liable for loss, damage or delay whether or not carrier negligence may have been involved.[1] This time-tested statutory obligation as a virtual insurer, i.e., liability for "full actual loss", is just as valid in 1984 as it was in 1906. Sucy common carriers serving the public generally must continue to be held strictly liable, otherwise the needed incentive to exercise the greatest degree of care in the handling of such movements would be reduced.

What specific protection does the Carmack Amendment provide?—It creates joint and several liability on joint-line carriers so that the shipper may recover from any carrier involved in the movement without having to prove which carrier actually caused the loss, damage or delay.

It permits claims and law suits to be filed with either the originating or delivering carrier.

It establishes uniform contractual time limits for claims and law suits to be filed against common carriers.

It codifies the common law liability of common carriers as virtual insurers of goods transported by them.

It mandates a choice of full value rates in the event a carrier offers lower rates for limited liability.

It has been stated that the provisions of the Uniform Commerical Code could serve as a substitute for existing Carmack Amendment protections and I.C.C. regulations on freight loss and damage. Is this true? Absolutely not. For instance, the U.C.C. does not prescribe uniform minimum time limits for filing claims or bringing law suits. The U.C.C. does not make the delivering carrier liable for claims on joint-line movements. The U.C.C. does not define "disallowances". The U.C.C. does not prescribe reasonable regulations for claim handling, cargo insurance or registered agents.[2] All of these provisions are important to shippers and consumers.

What regulatory protection exists today for shippers?—The Interstate Commerce Commission (ICC) has been mandated by Congress for almost 100 years to administer the Interstate Commerce Act, as amended, including the Carmack Amendment. That responsibility still exists today and should continue, or I.C.C. regulations should be codified into law.

Over the years, the ICC has promulgated a series of regulations applicable to loss and damage claims (49 C.F.R. Part 1005); overcharge claims (Part 1008); mandatory cargo insurance for motor carriers (Part 1043); and freight forwarders (Part 1084); designation of process agents by motor carriers, freight forwarders and brokers (Part 1044); information required on receipts and bills of lading (Part 1051); and bills of lading (Part 1081).

These regulations are vital to the implementation of the Carmack Amendment for all surface transportation movements. These regulations should be applicable to all interestate transportation whether it is "regulated" or "exempt" from economic (rate) regulation, (See, for instance, 49 U.S.C. 10505(e), the so-called Matsui Amendment, wherein Congress mandated the retention of Carmack liability for railroads in the Staggers Rail Act of 1980, while permitting alternative terms to be negotiated.)

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[1] *Missouri Pacific Railroad Company* v. *Elmore & Stahl*, 377 U.S. 134 (1964).

[2] The ICC regulations require all common motor carriers and freight forwarders to have in effect a special endorsement to their cargo insurance policy which obligates the insurer to pay to the claimant all claims up to $5,000 per vehicle, regardless of exclusions or deductibles, when the carrier is liable but can not or will not pay the claimant (when the carrier is in Bankruptcy, for instance).

Turning to the air carrier mode, following the enactment of the Airline Deregulation Act of 1977, The Civil Aeronautics Board (CAB) discontinued the regulation of domestic air cargo movements, including liability for loss, damage and delay. It is anticipated that Congress, by enacting the Civil Aeronautics Board Sunset Act of 1984, will ratify the termination of the CAB effective January 1, 1985, and transfer to the Department of Transportation certain basic statutory authority and obligations to protect consumers against unfair and deceptive practices or unfair methods of competition, including liability for lost or damaged baggage. This continuing statutory authority should empower the Department of Transportation to re-establish air carrier liability rules and regulations relating to air cargo loss and damage protection for shippers. Codification of the prior Civil Aeronautics Board regualtions would ensure shipper protection and remove this subject from possibly arbitrary administrative action.

In the ocean cargo arena, the antiquated Carriage of Goods by Sea Act adopted by the U.S. in 1936, must be replaced with the Hamburg Rules drafted in 1978 but awaiting U.S. ratification. These Rules would double the low liability limits prevailing since 1924 and impose strict common carrier liability on ocean carriers.

What has been the effect of common carrier deregulation generally on loss and damage liability?—The experiences resulting from airline and railroad deregulation confirm that increased competition among common carriers attributable to the freedom of the marketplace has had no beneficial effect on shippers as to liability matters. In almost every instance where such carriers have been freed of government regulation, they have proceeded to decrease their freight liability to the detriment of shippers. The reason why increased competition has not had beneficial results in liability matters is that common carriers primarily sell rates and services. They do not introduce negative issues, such as loss and damage claims experience, in their sales pitches. Furthermore, most shippers become concerned about liability only after their shipments have become lost, damaged or delayed in transit.

In the trucking field, the truckers today are trumpeting their own proposed program for the reduction of common carrier liability for freight loss, damage and delay, by attempting to change their traditional rate-making concept to a "base-rate" method with variable liability, and by proposing to cancel all existing packaging rules in the carrier-published classification, thus shifting the entire burden of package specifications to shippers. Both of these proposals would greatly insulate motor carriers from claim payments, regardless of carrier negligence, at the expense of shippers and consumers.

Whis is the Shippers National Freight Claim Council concerned about the present situation?—Since the enactment of carrier deregulation legislation, the carrier modes have continually taken steps to erode freight liability standards, with the ICC's tacit permission. For example, the Commission in March 1981 exempted piggyback TOFC/COFC rail service from economic regulation. Effective January 1, 1984, the ICC deregulated box car movements from economic regulation (see attached listing of 12 harmful results). In addition, some rail carriers have recently issued "Exempt Circulars" to announce substantial reductions in the time limits for filing of overcharge claims on box car shipments, a result not contemplated by Congress. For motor carriers, the I.C.C. has permitted "automatic" released rates to be published, which are contrary to the Commission's previous rulings. It has also given motor carriers and household goods carriers the privilege of including "deductibles" in released rate agreements, although Congress intended to limit this exculpatory device to railroads (49 U.S.C. 10730(e)). Deregulated airlines and air freight forwarders have severally reduced liability limits, claim-filing time limits and liability standards despite a Civil Aeronautics Board decision in 1977 finding such limitations unlawful.

We are concerned that the Department of Transportation in 1983 recommended the complete deregulation of the motor common carrier industry. In addition, a bill was introduced by Senator Packwood on November 1, 1983 (S. 2038) to eliminate all trucking economic regulations by 1987 except for safety and liability insurance, without providing for the retention of statutory and regulatory provisions for claims liability. On July 26, 1984, Senator Packwood also introduced S. 2874 to reduce regulation of surface freight forwarders, including the repeal of Carmack Amendment liability for forwarders.

Undoubtedly, the issue of additional deregulation applicable to all carrier modes will be considered by Congress in 1985. It is the intention of SNFCC to participate actively in this legislation review, primarily to retain the Carmack Amendment and related ICC regulations on the books, as well as to seek further improvements in the regulatory process pertinent to carrier liability for freight loss, damage, delay and overcharge claims.

What is the position of the Shippers National Freight Claim Council on the concept of transportation deregulation generally?—SNFCC is not against deregulation *per se.* It is opposed, however, to the relaxation of liability statutes, regulations and standards which traditionally have protected the shipping from public from unreasonable, unconscionable and unlawful limitations imposed by carriers attempting to evade the results of their negligence or evade payment for losses which occur while the shipment is in their exclusive possession and control. As the I.C.C. observed in its landmark decision in Ex Parte 263, 340 I.C.C. 515 (1972), at p. 519, "* * * the problems of carriers attempting to limit their liability arbitrarily and by other means seem to have continued almost unabated. The rules adopted by rail and motor carriers and freight forwarders . . . which prompted the filing of the petition in docket No. 35198, and other relevant carrier practices with which we are concerned in this proceeding, appear to represent the latest efforts by carriers in this time-honored endeavor."

Deregulation has opened the door to new attempts by carriers to limit their liability arbitrarily, a door which must be closed by Congress.

What Congressional action does SNFCC recommend?—Congress should retain the Carmack Amendment in place to hold all surface common carriers and freight forwarders strictly liable for freight loss, damage and delay.

Congress should repeal the provision for "deductibles" in released rate agreements, particularly with motor carriers and freight forwarders, since Congress only intended to permit such agreements in rail rates.

Congress should require the ICC to retain existing regulations which provide shipper, receiver and consumer protections in the domestic freight liability field or should codify appropriate regulations to ensure they will be retained notwithstanding further economic (rate) deregulation.

Congress should require the ICC to scrutinize tariff liability rules and released rate filings prior to acceptance and publication, and mandate that the ICC judge the reasonableness of the differential between full value rates and limited liability rates when offered. This is necessary to prevent the carriers from offering prohibitively high rates designed to discourage shippers from exercising their common law option for full value protection.

Congress should restore access to the Federal District Courts to litigate loss and damage claims valued at less than the present $10,000 minimum amount (see H.R. 3919). The ICC supports this bill. (See Ex Parte No. 403, Rail Cargo Liability Study, September 28, 1981)

Congress should enact legislation to encourage the arbitration of shipper/carrier liability disputes about freight loss, damage and delay on claims up to $5,000 by permitting those claimants compelled to sue in court when an arbitration program is not offered by the carrier party, to recover attorney fees when they prevail. The ICC supports this proposal. (See Ex Parte No. 403)

Congress should repeal the restrictive amendment in the Staggers Act of 1980 which limited the place where claimants may sue rail carriers. The ICC supports this proposal. (See Ex Parte No. 403)

Why should common carriers be concerned about the elimination of established freight claim rules and procedures?—It can be anticipated that in a totally deregulated environment, shippers will be free to deduct freight claims against carriers from freight charges owed to such carriers. Shippers could also delay the payment of freight charges until they had accumulated enough charges to fully offset the value of freight loss and damage claims. This would seriously exacerbate carrier cash flow problems.

Shouldn't individual shippers have a right to negotiate liability terms to meet their particular transportation needs?—Yes, but shippers and carriers presently have the right to negotiate lower rates and reduced liability in the form of released rates and contract rates without I.C.C. approval. That privilege should continue, and will be preserved under the proposed amendments to the law.

Who else supports retention of liability laws and regulations?—The vast majority of shippers and shipper organizations, and others, typified as follows: "Claim matters are assuming greater importance than ever. Maintaining full common carrier liability and the ability to effect collection of our loss and damage claims are essential elements to sound transportation. In the face of strong efforts by the regulatory agencies and some carriers to rescind these policies, SNFCC has a tough row to hoe." M. B. Smith, Director of Traffic, American Home Products Company and President, National Small Shipments Traffic Conference.

"We agree with the NASSTRAC President that there are regulatory duties the ICC (or some regulatory body) must not abandon, such as responsibility for loss and damage coverage for shippers." Traffic World, August 1983.

"We support the establishment of uniform liability rules applicable to all modes of transportation with allowances for exemptions negotiated between carriers and shippers and/or receivers." National Industrial Transportation League.

"If there is one good thing that can be said about the Interstate Commerce Commission, it is that they have kept their hands off the Carmack Amendment." Congressman Glenn M. Anderson, Chairman, Subcommittee on Surface Transportation, House Public Works and Transportation Committee.

"I think that Congress needs to be more aware of the need to improve the quality of regulation. There is a growing feeling on the Hill that we have used a meat-axe approach. We must refine our process to be selective. Too often we have used the blunderbuss approach. Today we must be more sophisticated. It is clearly the responsibility of Congress to insure a better balance. We need to retain or enact 'responsible regulation'," Congressman William F. Clinger, Jr.

"After reading the survey results, it appears that shippers, while perhaps pleased with partial deregulation as it now stands, are a bit worried about the prospect of total deregulation. This is especially evident in the freight claims area. It is also interesting to note that carriers have a similar viewpoint on the handling of claims, should rules governing the process be wiped out—a no-win zone for both." Transportation (DE) Regulation Report, August 1983.

"Give high marks to the SNFCC (Shippers National Freight Claim Council) for recognizing what the demise of the ICC might mean to shippers. Aware that "sunset" legislation sometimes inadvertantly erases other laws designed to protect shippers, the group is preparing several bills that would preserve shippers' rights in carrier liability and freight—claims disputes. One measure the group is working on would not only keep intact the liability provisions spelled out in the Carmack Amendment to the Interstate Commerce Act but also preserve all current ICC rules covering the application and processing of loss-and-damage claims—regardless of what happens to the agency. In the SNFCC's view, working toward the passage of measures like this one is the best way to guard against the unknown." "Deregulation Watch", Traffic Management, July 1984.

"Just as during the regulatory era, Congress and the Commission carved out some narrow, carefully defined areas in which regulation was not required, so during the deregulatory era, Congress and the Commission likely will carve out other narrow, carefully defined areas in which regulation still is required. To be sure, the burden of proof has shifted. Today, it is those who desire regulation—rather than those who seek to be free of it—who tend to bear the burden. But, I think there is a consensus at the Commission and in the appropriate Congressional Committees, that some carefully-defined areas of transportation will remain subject to regulation in the future." Heather J. Gradison, Commissioner, Interstate Commerce Commission.

Would it be logical to include freight liability in the limited grouping of carefully defined areas in which regulation is still required?—Yes, for the following reasons:

Carrier liability is not affected by experimental marketplace freedoms, the availability of which was relied on to justify transport deregulaiton legislation.

It pertains to a very limited portion of the transportation cycle of freight movement, namely an after-the-fact legal recovery from carriers in whose custody goods were lost, damaged, or delayed.

If "safety" is considered as a worthy exception to the deregulated environment, freight liability falls into this category because it relates to the safety of goods en route and their arrival at destination in an undamaged condition.

If "insurance" is considered as a worthy exception to the deregulation environment, freight liability falls into this category. Existing I.C.C. regulations currently mandate cargo insurance for motor carriers and freight forwarders, and should be expanded to incude railroads and airlines as well.

In conclusion, the Shippers National Freight Claim Council respectfully submits that existing statutory and regulatory cargo liability protections for shippers and consumers are in the public interest and must be retained and strengthened for the future.

RAILROAD ACTIONS CAUSING UNINTENDED INJURY TO SHIPPERS FROM THE ICC'S EXEMPTION OF PIGGYBACK TOFC/COFC & BOXCAR SERVICE

1. Charging a premium above the general level of rates if a shipper insists on full Carmack liability. This differs from the historic method of rate-making under which the general level of rates provided full liability, and the railroads offered reduced rates on individually selected commodities at limited liability.

2. Attempting to evade the law governing common carriers by self-serving declarations that the carrier is offering its service as a "hirer" rather than as a common carrier.
3. Reducing time limits from nine months to four or six months for filing loss and damage claims, and from two years to one year from disallowance for filing suits. One railroad even added a requirement that suits be filed within one year from delivery instead of from disallowance. Time limits for filing overcharge claims have similarly been reduced by some carriers from three years to nine months.
4. Shifting the burden of proving carrier negligence to the claimant, a virtually impossible burden.
5. Imposing minimum amounts for the filing of claims, ranging from $100 to $200, and including deductibles of up to $250 without offering the shipper a choice of rates.
6. Limiting liability to certain named causes, such as accidents and fire, and exempting carriers from liability for negligent delay.
7. Introducing the tort concepts of comparative and contributory negligence. For example, one railroad provides that it will apportion the negligence or omission for each party to the contract.
8. Changing the measure of damages recoverable by claimants and, in one instance, imposing a $100,000 maximum of liability unless the shipper declares on the bill of lading that the value exceeds $50,000 per trailer.
9. Refusing to accept claims for "uncertain" amounts, or claims which are not fully documented at the time of filling.
10. Imposing restrictions on the definition of a claim to preclude multiple claims on one car loaded by a forwarder or consolidator for many shippers.
11. Limiting recovery on partial losses to a proportion of the released value equal to the percentage of the shipment which was lost or damage.

Forcing shippers to file claims against all connecting carriers for their share of losses, the origin carrier paying only the prorated portion of claims based on its share of the revenue.

STATEMENT OF JAMES C. HARKINS, EXECUTIVE DIRECTOR, NATIONAL MOTOR FREIGHT TRAFFIC ASSOCIATION, INC.

PROMISES OF MCA '80

As the MCA of 1980 states in its preamble, "the motor carrier of property industry is a healthy industry that has effectively competed with other freight-hauling modes" and that "the intent of this legislation is to overhaul outmoded and archaic regulatory mechanisms, while retaining the plusses of an industry that has worked by simply conducting itself under the 'rules of the game'." The law was to produce "a legislative solution aimed at increasing competition and reducing unnecessary Federal regulations and thereby to better have the industry serve the public." In short, the law "establishes a new Federal policy which is to promote a competitive and efficient motor carrier industry in order to accomplish certain goals . . . (including) meeting the needs of shippers, receivers, and consumers; allowing price flexibility; encouraging greater efficiency, particularly in the use of fuel; and providing service to small communities."

The new Federal policy was to administer the new law in such a way as to:

1. Promote a competitive industry;
2. Maintain or improve on the existing health of the industry;
3. Improve industry productivity;
4. Ultimately foster the development of the industry so as to produce efficiency that translated into savings for consumers.

RESULTS OF MCA '80

As for the first goal, there has been a tremendous growth in competition. The number of firms has more than doubled, going from 17,000 to over 40,000. While it is impossible to measure, the capacity of the industry to provide service has also more than doubled. This certainly has introduced a level of competition that neither this industry, nor probably any industry, has ever experienced. But it has also brought with it an unhealthy competition which was certainly not envisioned by the Congress to be a result of MCA 1980. This industry has over the past four years documented in these hearings and those before the House the unfair competitive results brought about by wildfire competition. The big shippers have highly favorable competitive advantages that are exploited to the detriment of competition among the overwhelming majority of shippers. The ICC has and no doubt will continue to dodge this fact with glowing releases about the condition of the industry and the reality of unbridled price wars going on among carriers in response to the economic pressures of large shipping firms. So, yes, we have a more competitive industry now than in 1980—but the quality of the competition is destructive. It is unfair competition that is unhealthy in the short run proving to be even more so in the long run.

The accomplishment of the first goal by way of creating destructive competition has led to a thwarting of the second goal, i.e., the improvement of the health of the trucking industry. There continues a carnage of formerly healthy, efficient trucking firms brought about by unfair competitive activities ignored by the blindfolded who think only good can come from overdoses of competition. The health of the industry no longer exists. A handfull of carriers exhibit conditions that can reasonably be called healthy. The rest are in dire financial straits, barely keeping their heads above water and cannibalizing their existing possessions to keep running for as many days as they can before failing, either financially and/or mechanically.

The third goal, improving industry productivity, is an even sadder picture. With so much excess capacity which is fueling the unfair competitive atmosphere, the industry finds itself in a mad scramble to capture a share of freight. The natural result of tremendous excess capacity and unbridled competition in the short or intermediate run can only be and has been a devastating downward plunge in the industry's productivity. Of course, economists would tell us that in the long run this will be taken care of and that may be correct, However, the remedy to correct this malady would likely be the death of the industry save a few and a reduction of competition to levels far below those which existed prior to 1980.

The fourth goal, industry development in such a way as to be more efficient and provide service in a less costly way so as to aid consumers, if remembered by any, has turned out to be illusory. Congress, we are sure, honestly hoped that what deregulators told them would happen would in fact produce an industry that would improve on its efficiency enabling shippers to save on transportation costs and then pass those savings on to consumers. Unfortunately, the record shows that over-all the reverse is true. The industry efficiency has, in real terms, plummeted and hoped for savings to consumers have become instead added expense caused by tremendously increased inefficiencies and waste of resources. Certainly, some large shippers are being favored with price concessions that appear to be beneficial and certainly some carriers seem to be able to offer these price concessions that suggest a lower cost in the transportation bill. But the reality is that some carriers are charging different shippers different prices for virtually the same service and those prices are, overall, higher than ever and comparatively higher than they would be but for the tremendous costs of the inefficiencies being experienced. In the first place, general freight truck tansportation is but a small part of the bill for marketing the products of this country—perhaps less than 1% of the total delivered cost of the nation's basket of goods. So to begin with, there wasn't much of an area to improve upon in such a way as to produce a bonus for consumers by reducing that figure significantly and passing it on in lower prices for purchased goods. The results of a dogmatic policy, blindfold to reality, believing in the therapeutic values of unrestrained competition have produced the opposite of the goals sought by regulatory reform. Any honest analysis will show that the only goal attained is that of increased competition—but it will also show that the feverish drive to wantonly fuel that fire without attention to results has destroyed any possibility of reaching the other objectives—and done so at a tremendous cost in wasted resources.

MCA '80 EXPECTATIONS GONE SOUR

Any reasonable and honest evaluation of the changes and results of the trucking industry in the past four years would have to conclude that we continue to increasingly waste resources and produce a poorer product for the economy. There is increasing concentration which can only lead to reduced competitiveness; the competition that exists is not healthy, it is in fact unfair favoring larger shippers; the industry is extremely ill and in the position of facing financial disaster; our productivity and efficiency have been dealt a staggering blow; we are wasting resources at an uparalleled rate which is producing a staggering dollar expense to the nation. In short, the expectations of the MCA '80 are on the road to nowhere and the industry has also been made to take a turn onto a road of wasteful and costly inefficiency.

THE STATISTICAL ANALYSIS

The analysis herein highlights the financial condition of a major segment of the trucking industry, the motor common carriers of general freight. The analysis stresses the need to delve into the profile of the carriers and emphasizes the error of making conclusions from mere composite data.

Such profile indicates cause for grave concern about the financial health of most of the individual carriers who form the backbone of the general freight segment. It shows that despite the turnaround in the national economy, the general freight carriers as a group are not gaining a reasonable share of that economic improvement. They are hauling less freight at higher costs and therefore at higher prices which produce negligible profits. As attested to by ATA, the carriers have not been able to obtain any productivity gains from recent Congressional changes in the law. Besides these practical roadblocks carriers face to improving productivity, they need adequate profits to generate the investment needed to have the opportunity for productivity gains if and when the existing impediments to full implementation of the Surface Transportation Assistance Act of 1983 are overcome. In the meanwhile, costs are going to be even higher due to the increased taxation as a result of that law coupled with other matters such as discriminatory state taxation.

The data in the analysis focuses on the performance of the Common Carriers of General Freight. The data is for a large sub-group of General Freight Instruction 27 carriers. They are generally the carriers that are governed by I.C.C. Ex-Parte MC-82. The number of carriers year by year is different primarily due to attrition from bankruptcies and acquisitions. The list of carriers and their inclusion are detailed in Exhibits GA through GF. The data represents carrier-only statistics from the annual and quarterly reports filed by these carriers with the I.C.C.

While this data base does not contain all MC-82 Carriers, the carriers included account for over 90% of the MC-82 revenues and more importantly over 80% of the general freight carrier industry revenues.

RECENT PERFORMANCE OF GENERAL FREIGHT CARRIERS

The I.C.C.'s report and release in connection with the 1st quarter 1984 performance suggest that the Motor Carrier industry is in great shape and had a banner quarter. The release reports that revenues, earnings and traffic volume have improved, and that the carriers are sharing in the economic recovery. Operating income and the calculated return on equity are characterized by the ICC as having increased "substantially" and the net income having "more than doubled." The attached analysis entitled "I.C.C. 100 Largest—Is it Meaningful" demonstrates the grossly misleading assertions in the ICC release and the fact that it misrepresents the state of the General Freight Carriers. The analysis has deficiences in carrier selection, infirmities in return calculations and makes comparisons based on incompatible carrier frames. Simply, the omission of a profile analysis leads to misconclusions. The aggregate results do not portray the true state of the carriers. Honest analysis demands the details behind the aggregate. Attached is an in-depth criticism of the ICC's official release.

An honest evaluation of the performance of this segment of the industry during the 1st and 2nd quarters of 1984, is depicted in table EA herein. This shows a comparison of the performance of the General freight carrier group during the 2nd quarter 1984 and the 2nd quarter 1983. While the composite operating ratio looks reasonable (94.5), an analysis of the profile is chilling. Table EC shows the distribution of the underlying data of the recent quarters. Much of the operating profits are accounted for by the Top 10 carriers who had a combined 92.73 OR whereas the operating ratio for other carriers was 96.56. Considering that the second quarter is historically the best quarter, the results for all but the Top 10 present an alarming picture. Table DC makes a similar showing for the 1st half of 1984. As can be seen, the results for other than the top ten are alarming and worse then 1983. This is even more disturbing since it is somewhat of an understatement caused by exclusion from the prior year data of those carriers who were at death's door and have since gone out of business (such as Interstate Motor Freight System, IML Freight, ICX, Branch, etc.). Congress was advised that the so-called inefficient would go under and the residual carriers would only be the efficient, but survival and growth of the financially strong is no guarantee that the inefficient are dying while only the efficient survive. In fact, if profitability is an indicator of efficiency, the group as a whole are not more efficient than the carriers of yester-year. Even if the operating ratio is not valued as an indication of efficiency such grossly inadequate profitability would make it impossible to sustain the levels of investment necessary to seek future efficiency.

A comparison of the results of the 2nd quarter 1984 with the 2nd quarter of 1983 shows:

Operating revenues for the composite rose 10.08%, while expenses rose 11.72%.

Gross Margin fell from 6.87% to 5.48%.

The Net Margin fell from 3.88% to 2.92%.

The revenue tons hauled increased 7.67%.

Of the 143 reporting carriers, 31 had operating ratios of over 100, and 57 carriers had ratios over 97.5. 29% of the carriers had operating ratios of under 92.5 and realized 82% of the total net income, 59% of the carriers had operating ratios over 95 and as a group lost money representing a — 10% of total profits.

The top 10 carriers in the country account for over 55% of total revenues, 75% of total profit and 39% of total tonnage.

The first half 1984 results shows a continuing trend of deterioration. Margins are as poor; half the carriers have very poor ratios; and the little income that was earned by the industry was in the main concentrated with the Top 10.

Even this dramatic showing falls short of the full story. Net profits shown represent earnings from *all sources of revenue* and not just the transportation function. There is a contribution to industry income from other sources such as sale of intangibles, interest income, and other areas. Carriers have been realizing some earnings from short-term investment of funds instead of investing these funds in replacement of equipment and the positive returns of such managerial action tend to understate the true results of the transportation-only activity of the industry.

CHANGES OVER TIME—IMPACT OF MC ACT AS ADMINISTERED BY THE ICC

Tables AA to AE summarize the financial and statistical profile of the sampled group freight carriers over the past 7 years, 3 years prior to 1980 and 3 years after 1980. The sample group represents 80% of the 3,000 general freight carriers when measured by revenue. The Tables have detailed financial and operating data for—

1. All carriers in the survey;
2. Top 10 carriers;
3. Other than Top 10 carriers;
4. Carriers who survived through 1983;
5. Carriers who did not survive beyond 1982.

To portray the industry performance before, during and after the MC Act, tables BA to BC average the statistics for the 3 years prior to 1980, 1980 itself and the 3 years since 1980. The results show that in the 81–83 period the industry was hauling 33% less tons, at a 13.3% higher cost and for revenues 10.3% higher.

The operating ratio worsened from an average of 94.94 to 97.59. Excluding the Top 10, the ratio of the other carriers worsened from 96.44 to 99.67.

The ROE likewise worsened from an average of 13.73% to 7.45%. Again, removing the results of the Top 10, the ROE for the other carriers worsened from 10.79 to −3.08%! (See Graph I) (Note: The ROE calculations include the impact of the write off of operating rights. While for regulatory rate making purposes they would be ignored, they are included here, as Congress explicitely authorized such write off. In fact the "After MC Act" ROE would be even worse, if an adjustment were made for the tax benefit of the write-offs.)

Average TL tonnage dropped 40% and LTL tonnage dropped 20%.

Operating revenues though higher than the pre-1980 period have dropped 4% since 1980, tracking the drop in tonnage. Unfortunately the drop in tonnage is much more severe which means that in the aggregate shippers (and ultimately consumers) are paying a much higher price for transportation now than before 1980 (See Graph II).

Comparing the industry performance before MCA 1980 with the performance since, we are:

	All industry (percent)
Producing much less service, that is, handling much less freight	−33.4
In a less efficient way, that is, at a higher cost	+13.3
At higher cost to the public, that is, at higher total charges	+10.3
With disastrous results, that is, earning much lower profit margins	−46.9

When looking at the results for the great number of carriers, i.e., the other than Top ten, it is a fair statement to indicate that this tremendous industry segment, despite national economic recovery, is a disaster scene. While handling about half the tonnage they used to, the corresponding costs and revenues are much higher than they should be but profit margins are virtually non-existent.

The impact of these lower profits has resulted in only modest change in the carrier operating property. The bulk of that property is in transportation equipment which requires replacement over a period of 5–8 years. The Post MCA 1980 change in the operating property for all carriers has been a modest 10% (the decline is 12% for other than the Top 10). Because of the poor financial condition since MCA 1980 it is not surprising to find the transportation equipment is aging but not being replaced. The safety implications of such aging circumstances is a serious concern and should be carefully studied. The percent of Accumulated Depreciation to original cost has increased for all from 45% to 50%. For the other than Top 10 it has increased from 48.3% to 54.4%. This trend is running in the opposite direction of our recovering economy and displays a sickness that spells even greater problems in the near future. It is the precise opposite direction being enjoyed by all manufacturing companies whose ratio has improved from 41% to 38%.

The carrier outlay for added property has also declined dramatically. Table CA shows the average annual additions at about $571.9 million during 1977-1980, while the carriers had an average disinvestment of $76.7 million since 1980. They are cannibalizing themselves in their attempt to stay alive.

Continued decline in outlays will hinder the industry's ability to serve and will deal a devastating and long term blow to what was the finest surface transportation system in the world.

ABOUT THE CASUALTIES

In passing the MC ACT 1980, Congress recognized that some of the then existing carriers would not be able to effectively compete in the new environment. They, like others, would take their licks in the "market place" and survive or perish. No one expected the harsh impact that has resulted. Table AE is a reasonable demonstration of the impact. It details data for those carriers who are no longer reporting carriers. They have effectively gone out of the general freight trucking business.

Carriers who accounted for 1977 Annual Revenues of nearly $3 billion went out of the general freight business. These carriers accounted for over 25% of the general freight industry revenues and employed about 70,000 people.

Recent quarter data shows that carriers representing 54% of the general freight industry had operating ratios over 97.5, and are desperately fighting for survival. Based on the 1st half of 1984, they account for an estimated annual revenue of $4.8 billion, and forecast a 1984 net loss of $79 million.

Half of the carriers in this group are candidates for failure. Taken together, the carriers in this group and the carriers who have failed, represent over $6 billion in annual revenues. In terms of numbers of companies that can ultimately fail it represents half the General Freight industry that existed before MCA 1980.

ABOUT WHAT HAS HAPPENED TO THE GENERAL FREIGHT INDUSTRY'S PRODUCTIVITY

Testimony on MCA 1980 effects before Congress in prior years has laid stress on the probable negative impact on productivity caused by regulatory changes (Testimony of Dr. Michael Evans of Evans Economics before the House Oversight Committee). There has been recent and needed emphasis in economic policy discussions of the necessity for improved productivity, quality, and the benefits of the "Japanese methods" heavily influenced by the teaching of our own world renowned Dr. W. Edwards Deming. It is fundamental to economic gain that changes in regulatory policy should evaluate whether such changes improve or hinder productivity.

Table FA is an extract of testimony by Dr. Ralph Nelson on the changes in Productivity among General Freight Carriers (See Justification of General Rate Increase, ECMCA filed July 27, 1984). Dr. Nelson, a noted author on economic topics, is a recognized expert on methods of evaluating productivity. He has done an extensive and continuing study of the productivity of the General Freight Carriers. As can readily be seen from the index of productivity developed by Dr. Nelson, carrier productivity has rapidly declined. The average index for the years 1977-1979 is 103.5, while the average for 1981-82 is 94.5, a drop of nearly 10%. Final data is not yet available, however, based on 1981-1982, it is obvious that the productivity of the general freight industry has unacceptably and dramatically declined since the MCA 1980. To get a reasonable and accurate picture of "how we're doing" today versus yesterday, the 1982 productivity index is 93.15 and the employe index is 122.82 in a year when we "produced" 33.1 billion ton miles. Comparably, in 1977 we "produced" 34.2 billion ton miles while our productivity index was 105.28 and employe index 131.36. In other words, the industry employe index has dropped 6.5% but extremely significantly, our productivity index has fallen by 12.13 for a comparable amount of output—a shocking 11.5% decline in productivity.

That productivity decline in a key industry of this nation's economy has continued through the economic recovery of 1983 on into the first half of 1984 and is a direct result of the ICC administration of the well intentioned regulatory reform of MCA 1980.

OBSERVATIONS

One asks the question "how could such a long deliberated, well thought out law have gone so wrong?" An honest answer is that it is not the law as framed that brings about such errant results. It is rather the absolutely counter-productive implementation of that law through regulatory actions that convolute the spirit and letter of that law. The perfect legislation—and certainly MCA '80 is far from perfect—would be frustrated unless it was implemented with the proper spirit and its own philosophy. It is sad to say, but the more than two years work put into the MCA '80 by the Congress and others is being wasted because of a blind headlong rush to an imagined haven of competitive cure. As history has proven over and over again, that haven cannot be reached without informed utilization of competitive forces so that they may act in a fair and non-discriminatory way.

What the industry needs, what the economy needs and what the spirit of the MCA '80 needs is a regulatory group that produces a fair evenhanded and intelligent implementation of MCA '80. The law must be implemented to produce fair competition among carriers in lieu of unfair competition. It must be implemented so that pricing is fair to all shippers and does not unduly favor large shippers to the disadvantage of the overwhelming majority of shippers.

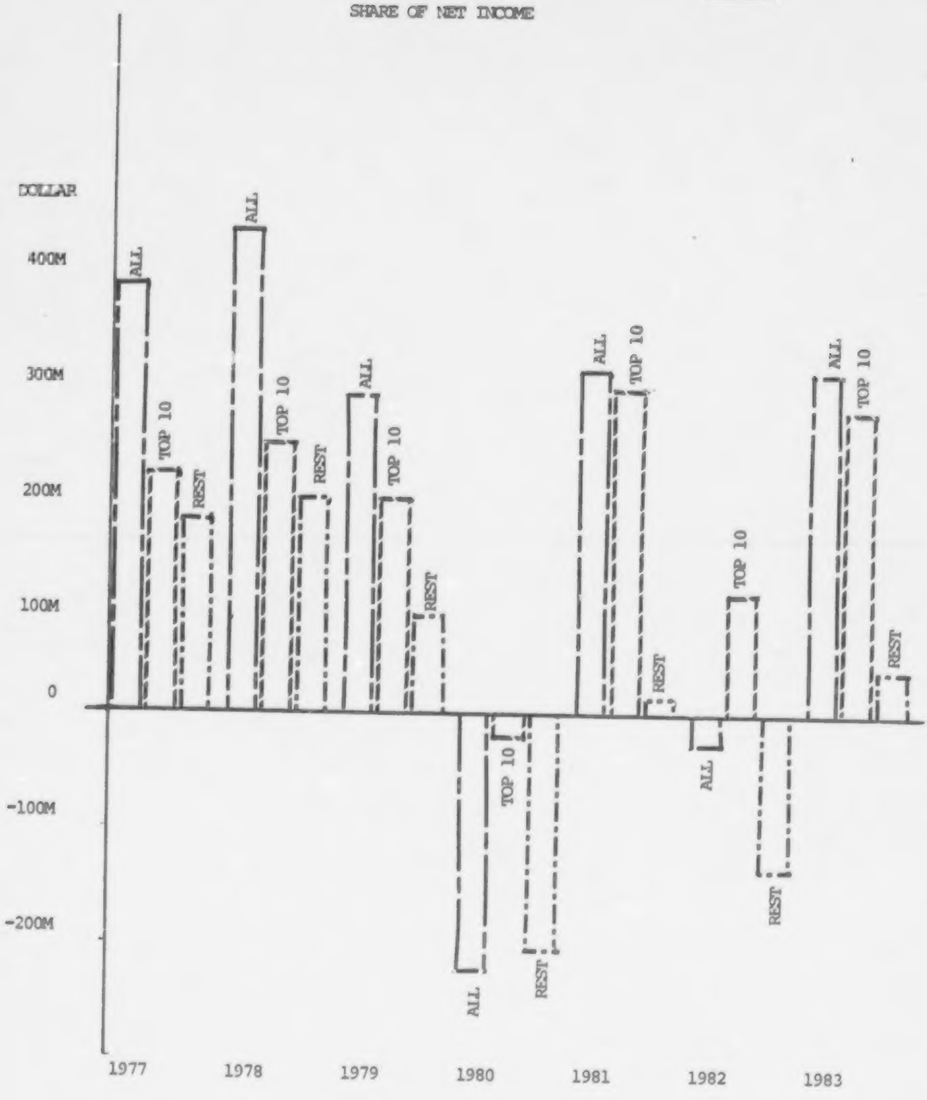
At the heart of the problem is the need to have an implementation of the spirit of MCA '80 that produces fairness in pricing. As with any industry, this industry should have to earn whatever profits it deserves from its efforts. But it should not have to suffer the loss of that opportunity to earn profits through the fostering of an unfair pricing policy that, without economic justification, destructively favors the big and will ultimately produce undersirable competitive results.

The tools to accomplish this are available. The MCA '80 properly implemented would facilitate healthy competition and fair pricing. Informed application of the law combined with future fine tuning as needed will produce results to foster healthy competition, assure a safe and fit trucking industry that can make the contribution our economy needs from truck transportation instead of being a wasteful drain on our resources, an industry now dangerously finding ways to fight a death brought on by unfair competition, and one that is being frustrated from efficient operation.

The Act doesn't need to be re-written or thrown out at this time. What continues to be needed is for the law to be given a fair chance to prove itself by proper implementation. The Congress and this Committee have a continuing opportunity to strive for that goal by demanding that the members of the ICC give the existing law a fair chance to work. And before we go through any further revamping of the law, the industry, the economy and the public deserve an ICC that will do just that.

GRAPH I

SHARE OF NET INCOME



GRAPH II

REVENUE, EXPENSES, TONS

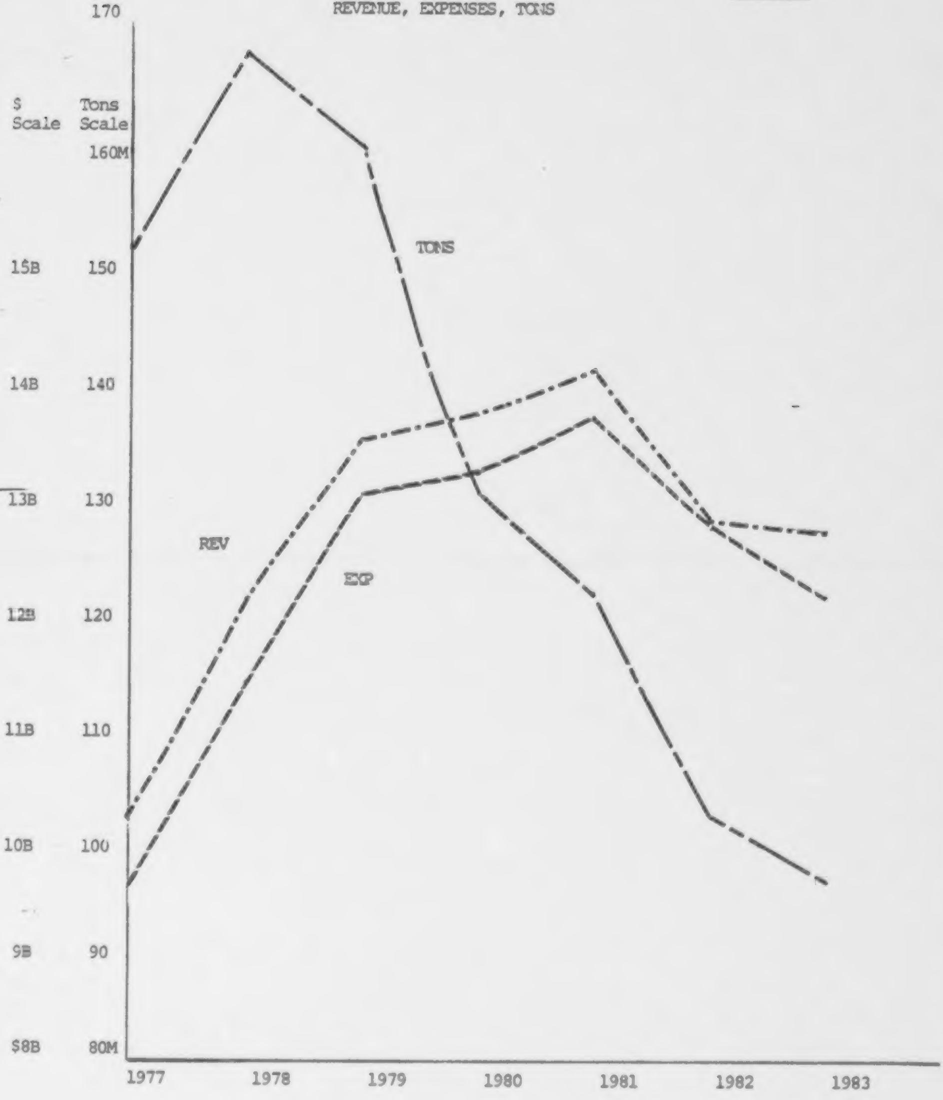


TABLE AA

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	1977	1978	1979	1980	1981	1982	1983
OPER. REVENUES	10,146,208	12,013,400	13,397,879	13,606,619	13,958,386	12,665,161	12,580,963
OPER. EXPENSES	9,510,602	11,306,159	12,940,891	13,141,471	13,639,377	12,587,362	12,032,323
OPER. INCOME	635,606	707,241	456,987	465,148	319,509	77,799	548,640
INC B4 TAX	593,473	641,461	370,979	351,935	231,495	15,006	491,713
NET INCOME	372,258	418,711	272,043	(222,330)	294,528	(29,640)	299,951
OPER. PROPERTY	4,104,398	4,828,736	5,540,532	5,820,288	5,994,172	5,948,512	5,590,097
ACC. DEPRECIATION	1,904,332	2,170,972	2,435,224	2,691,642	2,855,101	2,986,127	2,929,271
TOTAL LONG TERM DEBT	817,593	1,110,302	1,354,942	1,311,936	1,206,917	1,165,280	932,328
TOT. EQUITY	2,370,986	2,686,349	2,683,189	2,345,943	2,513,383	2,454,958	2,615,596
LTL TONS	54,592	58,870	57,107	51,805	49,718	43,563	42,975
TL TONS	95,718	108,585	102,377	77,575	71,088	57,697	52,963
TOTAL TONS	150,310	167,455	159,484	129,381	120,806	101,260	95,938
LTL SHIPMENTS	146,641	151,953	148,601	136,089	127,919	114,311	108,524
TL SHIPMENTS	6,598	7,215	7,118	5,606	4,957	4,842	3,831
TOTAL SHIPMENTS	153,240	159,168	155,719	141,696	132,877	119,152	112,355
TOT.MILES	5,673,743	6,268,858	6,335,045	5,599,611	5,348,666	4,682,446	4,401,921
TOT.TON MILES	78,069,625	87,876,646	87,714,782	75,981,089	72,514,544	61,972,936	58,809,546
# of EMPLOYEES	248.5	286.3	292.9	280.6	248.6	222.6	188.5
OWNED TRUCKS	17.4	17.9	17.7	15.8	13.7	12.0	9.6
OWNED TRACTORS	89.9	97.1	102.5	99.3	92.2	83.2	74.3
OWNED TRAILERS	196.5	215.9	226.3	224.8	211.2	201.3	179.4
OPERATING RATIO	93.74	94.11	96.59	96.58	97.71	99.39	95.64
ROE	15.70	15.59	10.14	-9.48	11.72	-1.21	11.47
REV. per TON	67.50	71.74	84.01	105.17	115.55	125.08	131.14
% CHANGE in REV.		18.40	11.52	1.56	2.59	-9.27	-0.66
% CHANGE IN UNIT REV.		6.28	17.10	25.19	9.37	8.25	4.35

NOTE: The Net Income for year 1980 in All these reports includes the write-off of operating rights. The ROE would be about 9% higher without it. Conversely, the 1981 ROE includes the related tax benefits. The ROE would be 15% lower.

TABLE AB

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN LIST — TOP 10 ONLY

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	1977	1978	1979	1980	1981	1982	1983
OPER. REVENUES	3,998,992	4,991,597	5,973,225	6,124,403	6,607,511	6,757,118	6,822,175
OPER. EXPENSES	3,633,908	4,579,843	5,683,495	5,793,831	6,319,847	6,587,822	6,395,262
OPER. INCOME	365,085	411,753	289,730	330,572	287,664	169,296	426,913
INC B4 TAX	356,917	397,593	275,382	304,281	294,479	162,209	433,798
NET INCOME	206,252	234,382	185,132	(20,378)	282,137	105,394	261,024
OPER. PROPERTY	1,634,755	2,086,321	2,471,509	2,636,330	2,888,460	3,249,566	3,135,508
ACC. DEPRECIATION	681,596	845,028	984,302	1,107,493	1,265,045	1,490,257	1,523,479
TOTAL LONG TERM DEBT	213,814	333,031	491,072	457,992	444,826	539,258	443,944
TOT. EQUITY	1,042,516	1,256,269	1,393,936	1,294,938	1,509,184	1,621,058	1,733,765
LTL TONS	18,219	21,831	21,841	20,051	20,002	20,244	18,988
TL TONS	26,771	34,264	33,120	25,618	23,830	22,805	20,241
TOTAL TONS	44,990	56,095	54,961	45,668	43,832	43,049	39,229
LTL SHIPMENTS	53,245	58,901	62,084	57,293	56,166	57,487	55,543
TL SHIPMENTS	1,834	2,161	2,237	1,754	1,659	2,342	1,397
TOTAL SHIPMENTS	55,079	61,062	64,321	59,047	57,825	59,829	56,940
TOT.MILES	2,348,267	2,728,362	2,961,012	2,601,198	2,564,317	2,531,481	2,370,232
TOT.TON MILES	34,214,448	39,950,649	42,806,146	37,154,060	36,284,885	35,178,294	33,134,559
# of EMPLOYEES	87.8	118.3	126.2	131.0	115.7	117.7	96.5
OWNED TRUCKS	6.0	6.7	7.3	6.3	5.5	5.4	4.1
OWNED TRACTORS	33.5	39.6	42.9	41.4	40.9	41.6	37.9
OWNED TRAILERS	73.9	89.0	97.3	95.5	94.6	102.9	94
OPERATING RATIO	90.87	91.75	95.15	94.60	95.65	97.49	93.74
ROE	19.78	18.70	13.28	-1.57	18.69	6.50	15.06
REV. per TON	88.39	88.98	108.68	134.11	150.75	156.96	173.91
% CHANGE in REV.		24.82	19.67	2.53	7.89	2.26	0.96
% CHANGE IN UNIT REV.		0.11	22.13	23.39	12.41	4.12	10.79

TABLE AC

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST — o/t TOP10

SELECTED FINANCIAL STATISTICS

(All figures in thousands)

	1977	1978	1979	1980	1981	1982	1983
OPER. REVENUES	6,147,216	7,021,303	7,424,654	7,482,216	7,351,375	5,908,043	5,758,788
OPER. EXPENSES	5,876,694	6,726,316	7,257,396	7,347,640	7,319,530	5,999,540	5,637,061
OPER. INCOME	270,521	295,488	167,257	134,576	31,845	(91,497)	121,727
INC B4 TAX	236,556	243,868	95,597	47,654	(62,984)	(147,203)	57,915
NET INCOME	166,006	183,827	86,911	(201,952)	12,391	(135,034)	38,927
OPER. PROPERTY	2,469,643	2,742,415	3,069,023	3,183,458	3,105,712	2,698,946	2,454,589
ACC. DEPRECIATION	1,222,736	1,325,944	1,450,922	1,584,149	1,590,056	1,495,870	1,405,792
TOTAL LONG TERM DEBT	603,779	777,271	863,870	853,943	762,091	626,022	488,384
TOT. EQUITY	1,328,470	1,430,080	1,289,253	1,051,005	1,004,199	833,900	881,831
LTL TONS	36,373	37,039	35,266	31,755	29,716	23,319	23,987
TL TONS	68,947	74,321	69,257	51,958	47,258	34,892	32,722
TOTAL TONS	105,320	111,360	104,523	83,712	76,974	58,211	56,709
LTL SHIPMENTS	93,396	93,052	86,517	78,796	71,753	56,824	52,981
TL SHIPMENTS	4,764	5,054	4,881	3,852	3,298	2,500	2,434
TOTAL SHIPMENTS	98,161	98,106	91,398	82,648	75,052	59,323	55,415
TOT.MILES	3,325,476	3,539,996	3,374,033	2,998,413	2,784,349	2,150,965	2,031,689
TOT.TON MILES	43,855,177	47,925,997	44,908,636	38,827,029	36,229,659	26,794,642	25,674,987
# of EMPLOYEES	160.7	168.0	166.7	149.6	132.8	104.9	92.0
OWNED TRUCKS	11.4	11.2	10.4	9.6	8.2	6.6	5.5
OWNED TRACTORS	56.4	57.5	59.6	57.8	51.4	41.6	36.9
OWNED TRAILERS	122.6	126.9	129.0	129.3	116.6	98.4	85.0
OPERATING RATIO	95.60	95.79	97.75	98.20	99.57	101.55	97.89
ROE	12.50	12.85	6.74	-19.22	1.23	-16.19	4.41
REV. per TON	58.37	63.05	71.03	89.38	95.50	101.49	101.55
% CHANGE in REV.		14.23	5.74	0.78	-1.75	-19.63	-2.53
% CHANGE IN UNIT REV.		8.03	12.65	25.83	6.85	6.27	0.06

TABLE AD

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN LIST — 1983

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	1977	1978	1979	1980	1981	1982	1983
OPER. REVENUES	7,527,889	9,084,455	10,474,247	10,796,639	11,710,614	11,534,385	12,580,963
OPER. EXPENSES	6,965,890	8,452,280	10,030,209	10,327,282	11,354,827	11,414,134	12,032,323
OPER. INCOME	561,999	632,175	444,037	469,356	355,787	120,251	548,640
INC B4 TAX	540,764	588,334	387,854	399,742	305,341	75,194	491,713
NET INCOME	338,692	386,641	267,110	(90,214)	327,686	15,056	299,951
OPER. PROPERTY	3,182,188	3,319,427	4,517,234	4,752,537	5,158,306	5,468,443	5,590,097
ACC. DEPRECIATION	1,419,689	1,641,681	1,919,133	2,144,996	2,409,879	2,701,256	2,929,271
TOTAL LONG TERM DEBT	570,970	798,130	1,018,568	942,845	935,682	1,029,234	932,328
TOT. EQUITY	2,008,692	2,313,108	2,309,177	2,136,384	2,367,243	2,397,540	2,615,596
LTL TONS	40,578	45,136	45,338	42,163	42,487	40,157	42,975
TL TONS	67,025	77,625	74,740	57,948	57,181	51,191	52,963
TOTAL TONS	107,603	122,761	120,078	100,111	99,668	91,348	95,938
LTL SHIPMENTS	108,559	115,425	118,432	111,384	109,381	105,100	108,524
TL SHIPMENTS	4,711	5,185	5,301	4,318	4,067	4,434	3,831
TOTAL SHIPMENTS	113,270	120,610	123,733	115,702	113,448	109,534	112,355
TOT.MILES	4,212,211	4,711,603	4,913,628	4,403,778	4,437,020	4,241,821	4,401,921
TOT.TON MILES	58,225,447	66,003,600	68,222,482	59,596,177	59,479,027	55,833,253	58,809,546
# of EMPLOYEES	180.0	216.3	228.4	212.9	208.5	201.9	188.5
OWNED TRUCKS	12.6	13.1	13.9	13.0	11.6	10.7	9.6
OWNED TRACTORS	67.1	74.4	80.7	78.8	77.7	75.1	74.8
OWNED TRAILERS	147.1	164.9	178.8	177.3	176.8	180.1	179.4
OPERATING RATIO	92.53	93.04	95.76	95.65	96.96	98.96	95.64
ROE	16.86	16.72	11.57	-4.22	13.84	0.63	11.47
REV. per TON	69.96	74.00	87.23	107.85	117.50	126.27	131.14
% CHANGE in REV.		20.68	15.30	3.08	8.47	-1.50	9.07
% CHANGE IN UNIT REV.		5.78	17.88	23.64	8.95	7.47	3.86

TABLE AE

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST -- o/t 1983 LIST

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	1977	1978	1979	1980	1981	1982
OPER. REVENUES	2,618,319	2,928,945	2,923,632	2,809,981	2,248,272	1,130,775
OPER. EXPENSES	2,544,712	2,853,879	2,910,682	2,814,189	2,284,550	1,173,228
OPER. INCOME	73,607	75,066	12,950	(4,208)	(36,278)	(42,452)
INC B4 TAX	52,709	53,127	(16,875)	(47,807)	(73,846)	(60,188)
NET INCOME	33,566	32,070	4,933	(132,116)	(33,158)	(44,695)
OPER. PROPERTY	922,210	1,009,309	1,023,298	1,067,750	835,366	480,069
ACC. DEPRECIATION	484,643	529,291	516,091	546,646	445,223	284,872
TOTAL LONG TERM DEBT	246,623	312,172	336,374	369,091	271,235	136,046
TOT. EQUITY	362,294	373,241	374,012	209,559	146,140	57,419
LTL TONS	14,014	13,734	11,769	9,642	7,231	3,406
TL TONS	28,693	30,960	27,637	19,628	13,907	6,506
TOTAL TONS	42,707	44,694	39,406	29,270	21,138	9,912
LTL SHIPMENTS	38,082	36,528	30,169	24,705	18,539	9,211
TL SHIPMENTS	1,887	2,030	1,817	1,289	890	407
TOTAL SHIPMENTS	39,970	38,558	31,986	25,994	19,429	9,618
TOT.MILES	1,461,532	1,557,255	1,421,417	1,195,833	911,646	440,626
TOT.TON MILES	19,844,178	21,873,046	19,492,300	16,384,912	13,035,517	6,139,682
# of EMPLOYEES	68.5	70.0	64.5	67.7	40.1	20.8
OWNED TRUCKS	4.8	4.8	3.8	2.8	2.1	1.3
OWNED TRACTORS	22.8	22.7	21.8	20.4	14.5	8.0
OWNED TRAILERS	49.4	51.1	47.5	47.4	34.4	21.2
OPERATING RATIO	97.19	97.44	99.56	100.15	101.61	103.75
ROE	9.26	8.59	1.32	-63.04	-22.69	-77.84
REV. per TON	61.31	65.53	74.19	96.00	106.36	114.08
% CHANGE in REV.		11.86	-0.18	-3.89	-19.99	-49.70
% CHANGE IN UNIT REV.		6.39	13.21	29.40	10.79	7.26

Carriers dropped from frame for any reason, primarily because they have gone out of business.

TABLE 8A

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	AVERAGE		AVERAGE
	1977-1979	1980	1981-1983
OPER. REVENUES	11,852,496	13,606,619	13,068,336
OPER. EXPENSES	11,252,551	13,141,471	12,753,021
OPER. INCOME	599,945	465,148	315,316
INC B4 TAX	535,304	351,935	246,071
NET INCOME	354,337	(222,330)	188,280
OPER. PROPERTY	4,824,555	5,820,288	5,844,260
ACC. DEPRECIATION	2,170,176	2,691,642	2,923,500
TOTAL LONG TERM DEBT	1,094,279	1,311,936	1,101,508
TOT. EQUITY	2,580,175	2,345,943	2,527,979
LTL TONS	56,856	51,805	45,419
TL TONS	102,227	77,575	60,583
TOTAL TONS	159,083	129,381	106,001
LTL SHIPMENTS	149,065	136,089	116,918
TL SHIPMENTS	6,977	5,606	4,543
TOTAL SHIPMENTS	156,042	141,696	121,461
TOT.MILES	6,092,549	5,599,611	4,811,011
TOT.TON MILES	84,553,684	75,981,089	64,432,342
# of EMPLOYEES	276	281	220
OWNED TRUCKS	18	16	12
OWNED TRACTORS	97	99	83
OWNED TRAILERS	213	225	197
OPERATING RATIO	94.94	96.58	97.59
ROE	13.73	-9.48	7.45

NOTE: The Net Income for year 1980 in All these tables including the write-off of operating rights. Conversely, the average for 1981-1983 includes the related tax benefits. Absent this benefit, the ROE Post-MCA would be lower.

TABLE BB

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST--TOP 10 ONLY

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	AVERAGE 1977-1979	1980	AVERAGE 1981-1983
OPER. REVENUES	4,987,938	6,124,403	6,728,935
OPER. EXPENSES	4,632,415	5,793,831	6,434,310
OPER. INCOME	355,523	330,572	294,624
INC B4 TAX	343,297	304,281	296,829
NET INCOME	208,755	(20,378)	216,185
OPER. PROPERTY	2,064,195	2,636,830	3,091,178
ACC. DEPRECIATION	836,975	1,107,493	1,426,260
TOTAL LONG TERM DEBT	345,972	457,992	476,009
TOT. EQUITY	1,230,907	1,294,938	1,621,336
LTL TONS	20,630	20,051	19,745
TL TONS	31,385	25,618	22,292
TOTAL TONS	52,015	45,668	42,037
LTL SHIPMENTS	58,077	57,293	56,399
TL SHIPMENTS	2,077	1,754	1,799
TOTAL SHIPMENTS	60,154	59,047	58,198
TOT.MILES	2,679,380	2,601,198	2,488,677
TOT.TON MILES	38,990,414	37,154,060	34,865,913
# of EMPLOYEES	111	131	110
OWNED TRUCKS	7	6	5
OWNED TRACTORS	39	41	40
OWNED TRAILERS	87	95	97
OPERATING RATIO	92.87	94.60	95.62
ROE	16.96	-1.57	13.33

TABLE BC

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST--o/t TOP 10

SELECTED FINANCIAL STATISTICS

(All figures in thousands)

	AVERAGE 1977-1979	1980	AVERAGE 1981-1983
OPER. REVENUES	6,864,558	7,482,216	6,339,402
OPER. EXPENSES	6,620,135	7,347,640	6,318,710
OPER. INCOME	244,422	134,576	20,691
INC B4 TAX	192,007	47,654	(50,757)
NET INCOME	145,582	(201,952)	(27,905)
OPER. PROPERTY	2,760,360	3,183,458	2,753,082
ACC. DEPRECIATION	1,333,201	1,584,149	1,497,240
TOTAL LONG TERM DEBT	748,307	853,943	625,499
TOT. EQUITY	1,349,268	1,051,005	906,643
LTL TONS	36,226	31,755	25,674
TL TONS	70,842	51,958	38,291
TOTAL TONS	107,068	83,712	63,965
LTL SHIPMENTS	90,988	78,796	60,519
TL SHIPMENTS	4,900	3,852	2,744
TOTAL SHIPMENTS	95,888	82,648	63,263
TOT.MILES	3,413,168	2,998,413	2,322,334
TOT.TON MILES	45,563,270	38,827,029	29,566,429
# of EMPLOYEES	165	150	110
OWNED TRUCKS	11	10	7
OWNED TRACTORS	58	58	43
OWNED TRAILERS	126	129	100
OPERATING RATIO	96.44	98.20	99.67
ROE	10.79	-19.22	-3.08

TABLE BD

GENERAL FREIGHT CARRIERS

COMPOSITE OF ALL CARRIERS IN CARRIER LIST--1983 LIST

SELECTED FINANCIAL STATISTICS
(All figures in thousands)

	AVERAGE 1977-1979	1980	AVERAGE 1981-1983
OPER. REVENUES	9,028,864	10,796,639	11,941,987
OPER. EXPENSES	8,482,793	10,327,282	11,600,428
OPER. INCOME	546,070	469,356	341,559
INC B4 TAX	505,651	399,742	290,749
NET INCOME	330,814	(90,214)	214,231
OPER. PROPERTY	3,839,616	4,752,537	5,405,782
ACC. DEPRECIATION	1,660,168	2,144,996	2,680,135
TOTAL LONG TERM DEBT	795,889	942,845	965,748
TOT. EQUITY	2,210,326	2,136,384	2,460,126
LTL TONS	43,684	42,163	41,873
TL TONS	73,130	57,948	53,778
TOTAL TONS	116,814	100,111	95,651
LTL SHIPMENTS	114,139	111,384	107,668
TL SHIPMENTS	5,066	4,318	4,111
TOTAL SHIPMENTS	119,204	115,702	111,779
TOT.MILES	4,612,481	4,403,778	4,360,254
TOT.TON MILES	64,150,510	59,596,177	58,040,609
# of EMPLOYEES	208	213	200
OWNED TRUCKS	13	13	11
OWNED TRACTORS	74	79	76
OWNED TRAILERS	164	177	179
OPERATING RATIO	93.95	95.65	97.14
ROE	14.97	-4.22	8.71

TABLE CA

GENERAL FREIGHT CARRIERS
AGGREGATE FOR ALL CARRIERS IN CARRIER LIST

OUTLAYS FOR PROPERTY

(Dollars in thousands)

CARRIER GROUP	AVERAGE ANNUAL CHANGE CARRIER OPER. PROPERTY		AVERAGE ANNUAL CHANGE ACCUMULATED DEPRECIATION	
	1980-1977	1983-1980	1980-1977	1983-1980
All	571,963	(76,730)	262,437	99,210
Top 10	334,025	166,226	141,966	138,662
Rest	237,938	(242,956)	120,471	(39,452)

TABLE CB

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST

INVESTMENT IN PROPERTY

AVERAGE FOR YEARS	CARRIER OPERATING PROPERTY (NET)			% OF ACCUMULATED DEPRECIATION TO ORIG. COST		
	ALL	TOP 10	OTHER	ALL	TOP 10	OTHER
1977-1979	$2,654.40	1,227.20	1,427.20	45.0	40.5	48.3
1981-1983	2,920.80	1,664.90	1,255.90	50.0	46.1	54.4
% Change	10.0	35.7	-12.0			

TABLE DA

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
SELECTED FINANCIAL STATISTICS
(Dollars in thousands)

1st Half Comparison

	1981	1982	1983	1984
OPER. REVENUES	5,615,849	5,451,409	5,764,388	6,417,401
OPER. EXPENSES	5,372,197	5,377,088	5,483,040	6,157,399
OPER. RATIO	95.66	98.64	95.12	95.95

Data is ONLY for carriers from whom reports are available for 1st Half 1984 and their subsidiaries in prior years.

TABLE DB

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
FREQUENCY DISTRIBUTION
BY O/R CELLS
(Dollars in thousands)

O.R. CELL	# OF CARR.	REVENUE	NET INCOME	O/R
		1st Half 1984		
Over 100	49	1,043,627	(45,666)	105.4
97.6 - 100	28	1,326,270	6,243	98.4
95.1 - 97.5	16	1,255,599	30,872	95.9
92.6 - 95.0	20	1,469,474	56,899	93.5
Under 92.5	30	1,322,431	95,001	88.8
TOTAL	143	6,417,401	143,349	95.9
		1st Half 1983		
Over 100	32	770,391	(26,785)	103.6
97.6 - 100	31	889,352	(401)	99.0
95.1 - 97.5	27	1,122,433	24,213	96.1
92.6 - 95.0	27	1,229,063	46,413	93.4
Under 92.5	27	1,753,499	112,614	90.0
TOTAL	144	5,764,738	156,054	95.1

TABLE DC

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
SELECTED FINANCIAL STATISTICS
(Dollars in thousands)

1st Half 1984/1983

Distribution by Carrier Size

	REVENUE	EXPENSES	OPERATING RATIO
1984			
LARGE (TOP 10)	3,456,629	3,270,269	94.61
OTHER	2,960,772	2,887,130	97.51
TOTAL	6,417,401	6,157,399	95.95
1983			
LARGE (TOP 10)	3,082,953	2,887,435	93.66
OTHER	2,681,785	2,595,605	96.79
TOTAL	5,764,738	5,483,040	95.11

TABLE DD

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
TOP 10 MARKET SHARE COMPARISON

1st HALF
(dollars in thousands)

	1981	1982	1983	1984[1]
TOP 10 REVENUE	3,194,609	3,137,158	3,380,320	3,789,680
TOTAL REVENUE	6,285,824	5,822,179	6,135,426	6,769,135
MARKET SHARE	50.82	53.88	55.10	55.98

1- For carriers who have not yet reported, the 1984 Revenues are estimated based on their 1983 revenues and the percent change in the revenues of those whose current reports are available.

TABLE EA

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
SELECTED FINANCIAL STATISTICS

2nd Quarter Comparison
(Dollars in thousands)

	1981	1982	1983	1984
OPER. REVENUES	2,919,479	2,826,355	2,999,633	3,302,015
OPER. EXPENSES	2,762,814	2,720,095	2,793,548	3,120,980
OPER. RATIO	94.63	96.24	93.13	94.52
NET INCOME	96,653	62,634	116,300	96,547
LTL TONS	11,044,000	10,340,000	10,707,000	11,850,164
TL TONS	15,015,000	12,710,000	12,684,000	13,329,813
# OF CARRIERS	146	146	144	143
# OF CARRIERS WITH:				
O/R > 100	18	38	16	31
92.5-100	83	76	75	71
< 92.5	45	32	53	41

TABLE EB

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
FREQUENCY DISTRIBUTION
BY O/R CELLS

(Dollars in thousands)

O.R. CELL	# OF CARR.	REVENUE	NET INCOME	TONS	O/R
		2nd Quarter 1984			
Over 100	31	305,298	(19,161)	2,779,755	107.3
97.6 - 100	26	599,708	417	5,771,610	98.6
95.1 - 97.5	28	416,640	8,662	3,702,996	95.9
92.6 - 95.0	17	787,861	27,116	5,099,093	93.7
Under 92.5	41	1,192,508	79,513	7,826,523	89.3
TOTAL	143	3,302,015	96,547	25,179,977	94.5
		2nd Quarter 1983			
Over 100	16	201,884	(8,345)	1,654,000	104.5
97.6 - 100	21	272,768	489	2,499,000	98.2
95.1 - 97.5	25	519,350	10,958	4,594,000	96.4
92.6 - 95.0	29	588,910	18,003	5,157,000	93.7
Under 92.5	53	1,416,721	95,195	9,487,000	89.1
TOTAL	144	2,999,633	116,300	23,391,000	93.1

TABLE EC

GENERAL FREIGHT CARRIERS
COMPOSITE OF ALL CARRIERS IN CARRIER LIST
SELECTED FINANCIAL STATISTICS

2nd Quarter 1984/1983

Distribution by Carrier Size

(Dollars in thousands)

	REVENUE	EXPENSES	O/R
1984			
LARGE (TOP 10)	1,758,272	1,630,382	92.73
OTHER	1,543,743	1,490,598	96.56
TOTAL	3,302,015	3,120,980	94.52
1983			
LARGE (TOP 10)	1,550,798	1,412,211	91.06
OTHER	1,448,835	1,381,337	95.34
TOTAL	2,999,633	2,793,548	93.13

Statement of Ralph L. Nelson, Ph.D.

My name is Ralph L. Nelson. I live at 126 Whitehall Blvd., Garden City, New York 11530. I am Professor of Economics at Queens College of the City University of New York.

PRODUCTIVITY DEFINED

Productivity describes the relationship between the quantity of a service produced by a firm or industry-output, and the quantity of labor, capital, materials and energy that produced the service—input. It is usually presented as a simple ratio of two numbers, a measure of output in the numerator and a measure of input in the denominator. The ratios typically relate to annual output and input and the annual ratios are compared to determine the direction and amount of productivity change. If, on balance, the ratio rises over a period of years, productivity is said to have grown. If, on balance, the ratio falls, productivity is said to have declined. The particular productivity measure used in the present case is the ratio of output to labor input, i.e., labor productivity. The industry in question is the intercity motor common carriers of general freight industry.

In applying the productivity adjustment in rate regulation the emphasis is on the more general concept of productivity rather than on the more particular concept of business efficiency. This is so because the productivity of a group of carriers reflects developments that are both within the control and outside the control of the individual carriers in the group. That part of productivity improvement resulting from gains in internal efficiency is the responsibility of carrier management. Its function is to achieve the greatest productivity possible within the limits imposed by economic scope and technological opportunity.

Management efforts to improve internal efficiency are partly but not wholly responsible for the trend in the productivity ratio. A significant part of the productivity trend results from developments which alter the external environment in which the carriers operate. Examples of broad changes having particular impact on the productivity trend for intercity common carriers of general freight might be (1) the relocation of population and industry away from the Northeast and North Central regions of the country and toward the South and Southwest, (2) changes in the condition of over-the-road haulage brought about by the rapid development of the intercity highway system in the 1950's and early 1960's, and the sharp attenuation of its development since then, (3) the expansion or sprawl of urban areas from declining central cities into suburbs, with attendant changes in the local pickup and delivery functions, and (4) the diminished rate of enactment of liberalized length and weight regulations by the individual states. Productivity change is thus seen to be the result of a complex interaction of developments that are both internal and external to the regulated intercity general freight industry.

THE PROPER USE OF PRODUCTIVITY DATA IN RATE REGULATION

The orientation in rate regulation is on the broad concept of productivity. The emphasis is on the change in overall productivity and less attention is paid to whether this change is the result of internal management-related developments or of changes in the external environment or of a combination of both. It is this broad measure of productivity change which, when properly applied against anticipated increases in the costs of labor and other inputs, neither unfairly punishes nor rewards the regulated industry.

For purposes of rate regulation the relevant time period over which productivity change should be measured is the medium to long run. Productivity change reflects the gradual unfolding of economic and technological opportunities, underlying developments which will have a fundamental effect on the long run trend in the cost and price of the service. The essence of the regulatory adjustment is to reflect these underlying productivity developments by an appropriate adjustment in price and thus to achieve the same result that, in an unregulated context, would be achieved by the process of competitive price adjustments absorbing these developments over a medium to long run period.

It therefore defeats the purpose of the productivity adjustments to base it on the change from one particular year to the next. Adjustments focused on such short run changes direct attention away from the basic productivity developments that determine the price trend for the service. Furthermore, the focus on year-to-year change subjects the regulated industry to abrupt swings in penalties and rewards having little to do with basic productivity developments. The productivity measurements programs of the U.S. government recognize the distinction between short-run and long-run productivity developments and place special emphasis on the measurement of longer-run rates of growth or decline.

An important emphasis in the application of productivity concepts in rate regulation is that "rate changes take into account expected and obtainable productivity gains." This involves a projection of productivity change into the immediate future and, here again, the trend observed for the most recently completed medium to longer run period provides the best foundation for describing the productivity trend of the immediate future. As mentioned earlier, the basic developments underlying productivity change unfolded gradually, and so the process is best characterized as evolutionary in nature. The estimation of the effects of particular new developments is subject to inprecision and uncertainty, and excessive emphasis on them may lead regulators to lose sight of their essentially incremental effect on the total operations of the industry.

ICC GUIDELINES FOR MEASURING THE TREND IN PRODUCTIVITY

The July 11, 1979 memorandum from John F. Hennigan, Jr., the ICC economist charged with dealing with the productivity issue, to Kenneth R. Tyree, Chief, Evaluation and Research Branch, ICC, clarified a number of questions about how the rate bureaus might go about the productivity analysis to be used in ongoing filings, as this had been mandated in the decision in I & S M-29772. The Hennigan memorandum provided a framework within which the rate bureaus could take concrete steps to develop measures of productivity.

In discussions with ICC economists, agreement was reached on a number of questions. One point of agreement was on the inadequacy of the BLS index of general freight labor productivity. The BLS measure was found to be inadequate in its measure of output, in its relevance to circumstances unique to individual territories, and in its inclusion of large carriers of small packages, carriers markedly different from the typical general freight carrier both in markets served and in operational structure. In addition the BLS series was found to have been plagued by a number of specific data problems.

A second point of agreement was that it was the responsibility of the rate bureaus to develop their own productivity analyses. The analyses so developed were to follow certain guidelines, the general pattern of which was outlined in the Hennigan memorandum and clarified in oral discussions.

One important guideline was that the measure of motor carrier output should reflect the several basic physical characteristics of output and not rely exclusively on a single aggregate measure such as tonnage or ton-miles. I understand that, in these discussions, it was indicated that serious attention would be paid to measures of output which explicity embodied such characteristics as weight of shipment, distance transported, and distribution between truckload and less-truckload shipments.

Another requirement for the productivity analysis is that it relates to a time period of appropriate length so as to reflect the effects of changes in the basic factors that determine the trend in productivity. The appropriate time period is set forth in the Hennigan memorandum:

"The first and easiest issue to resolve is the appropriate time frame for measurement of productivity. Productivity change is the long-term trend of changes in efficiency in the production process that may occur even with downturns in production caused by economic slowdowns. Therefore, to get at the underlying trend of increased efficiency (to the extent it exists), productivity growth should be measured over a long period of time to net out the short-run changes in computed productivity due to business cycles. An appropriate long-term index of productivity growth should consist of at least 10 years of data. A longer time series would shed additional light on the trend in productivity, but, as a practical matter, data in an appropriate form are not available for much more than a 10 year period."

The first statement prepared under these guidelines covered the eleven year period 1968-1979. The preparation of subsequent statements now provides productivity measures for the 14-year period 1968-1982.

A third characteristic of the productivity measure is that, ideally, output should be related to the inputs of all factors of production i.e., a measure of total-factor productivity is the ultimate goal. It was recognized that the development of measures of non-labor inputs would involve data development and analysis of a much greater order of magnitude than that required for the more accessible measure of labor input. Therefore, as an interim matter, measures of labor productivity, with due recognition of their limitations, would be very useful. The Hennigan memorandum puts it as follows:

"The measure should include all factors of production. Single-factor measures of productivity such as ton-miles per employee, even if correctly measured, have limited usefulness in a regulatory environment. While the measure is indicative of what has happened with respect to the physical growth of output and the physical growth of one input, it does not take into account substitution of one input for another in the production process (i.e., labor) or growth of the other factors. To accurately measure the contributions of productivity, the growth of output as compared to inputs, it is necessary to consider all inputs in the production process. Therefore, a computation of a measure of productivity taking into account the growth of all inputs is more appropriate in general, but especially in the context of rate regulation of motor carriers.

"As an interim step, taking into account all the problems of data availability and collection, an improved single-factor productivity index could be computed which would be an improvement over the BLS Index in that it more accurately reflected the growth of output and the growth of the labor input. However, the problem would still exist that other factors such as capital growth or the use of owner/operators are excluded and may explain parts of the productivity residual that could result from a computed output/man-hour for the trucking industry."

The above-described guidelines were followed in the preparation of productivity analyses in August 1980, in February 1981 and in September 1981. These analyses were used by various rate bureaus in justification statements filed in 1980, 1981, and 1982. In its evaluation of the productivity analysis included in the submission by the Eastern Central Motor Carriers Association for a general increase in rates to become effective May 25, 1981, the Section of Cost Analysis of the ICC indicated that it would like to see a more detailed presentation of the statistical and conceptual foundations of the measure of the output of trucking service. This suggestion also was included in the ICC's examination of proposed rate changes in other proceedings in the Summer of 1981.

The September 1981 statement was expanded to reflect this evaluation. In ongoing discussions with the ICC staff, the ways in which the output measure might continue to be improved were further examined. The September 1982 statement contained several changes made in the light of these discussions. For one thing, data on expenses rather than revenues were used to estimate the output equation. Second, the implications of the use of combined time-series, cross-sectional data to develop the output measure were examined in greater depth. Third, the combined cross-section findings were compared with an output series that reflected the change in the structure of output that had taken place.

The present (July 1983) statement continues the further refinement of the output measures by the inclusion, suggested by the ICC staff, of the breakdown between truckload and less-than-truckload tonnage as one of the variables in the output equation. The purpose is to more fully capture the changes in the "consist of haulage" that have done much to determine the trend in output. The present statement also presents a linked output series so as to directly reflect the changing structure of output over the period.

OUTPUT MEASUREMENT

Correctly measuring the output of trucking service

As is the case for many of the service industries in the United States, trucking service is made up of a number of attributes, the combination of which varies from carrier to carrier and which changes from one year to the next for the same carrier. The output of trucking service thus can be very different for carriers generating the same number of ton-miles but which have differing characteristics of haulage.

Because of its ready availability in the published statistics of motor carrier operations, raw ton-miles has widely been used as a measure of the output of trucking service. In the same manner, the growth in the output of service has been equated with the growth in ton-miles. This procedure embodies the implicit assumption that the transport service content of the ton-mile has remained unchanged over time.

An extreme example will illustrate the problem in using raw ton-miles as the measure of output growth. A carrier may have generated one million ton-miles (2 billion pound-miles) from its operations in each of two years. In year 1 it may have carried 100 large (truckload) shipments, each 20,000 pounds in weight, from 100 origins to 100 destinations, an average distance of 1000 miles. In year 2 it may have carried 10,000 small (LTL) shipments, each 200 pounds in weight, from 10,000 origins to 10,000 destinations, also an average distance of 1000 miles. In year 2, by carrying 10,000 small shipments in contrast to the 100 large ones it carried in year 1, the carrier has demonstrably produced more transport service; nonetheless it generated the same number of ton-miles as it had in year 1. One might also expect the carrier's costs and revenues would have been higher in year 2 than in year 1.

To see the degree to which ton-miles provided a misleading measure of transport service output as predicted by the above example the ton-miles of a number of carriers were compared to their operating expenses, to see whether there was any consistent relationship between these two measures of a carrier's activity. In repeated comparisons of pairs of carriers a pronounced absence of correspondence between ton-miles and operating expenses was observed. Three such comparisons are described here.

Data on a pair of large carriers, Smith's Transfer Corp. and Lee Way Motor Freight provide the first of the comparisons (Table 1). While Smith's generated slightly fewer ton-miles in 1981 then did Lee Way, Smith's operating expenses were 31 percent higher than those of Lee Way. As measured by the amount spent to provide transport service, Smith's can be said to have provided almost one-third more service than did Lee Way.

TABLE 1.—COMPARISON OF 1981 OPERATING EXPENSES, TON-MILES, SHIPMENTS, AVERAGE SHIPMENT WEIGHT, LENGTH OF HAUL, AND LTL TONNAGE SMITH'S TRANSFER AND LEE WAY MOTOR FREIGHT

	Thousand					
	Ton miles	Operating expense	Number of shipments	Average shipment weight (pounds)	Average length of haul (miles)	LTL/ total tonnage
Smith's Transfer	1,544,773	$292,960	2,898	1,535	694	.513
Lee Way	1,560,286	224,274	1,369	1,944	1,172	.375

The reasons are found in comparisons of number of shipments, average shipment weight, average length of haul, and percent of LTL tonnage. Smith's produced considerably more transport service while generating a smaller number of ton-miles than Lee Way because of differences in the two carriers' service-providing characteristics of haulage. Smith's carried more than twice as many shipments, of about four-fifths the average weight, and about three-fifths the distance of the shipments carried by Lee Way. While 51 percent of Smith's freight tonnage was higher service content LTL traffic, only 37 percent of Lee Way's tonnage was of this type. Though Smith's generated a slightly smaller number of ton-miles, the service-providing characteristics of its haulage meant that it supplied substantially more transportation service.

Another confirmation of this relationship is seen for two carriers of medium size. The operations of Campbell Sixty-Six Express and Delta Lines provide this comparison (Table 2). While Delta Lines generated only three percent more ton-miles than did Campbell Sixty-Six, Delta Lines' volume of shipping service produced, as measured by operating expenses, was 78 percent greater than that of Campbell Sixty-Six. Delta Lines carried 2.65 times as many shipments as Campbell Sixty-Six, at an average weight 61 percent that of Campbell Sixty-Six, and an average distance 64 percent of that of Campbell Sixty-Six. While 66 percent of Delta Lines' freight tonnage was higher service content LTL traffic, only 50 percent of Campbell Sixty-Six's tonnage was of this kind. Delta Lines' service-providing characteristics of haulage meant that it produced more transportation service than suggested by the raw ton-miles it generated.

TABLE 2.—COMPARISON OF 1981 OPERATING EXPENSES, TON-MILES, SHIPMENTS, AVERAGE SHIPMENT WEIGHT, LENGTH OF HAUL, AND LTL TONNAGE, CAMPBELL SIXTY-SIX AND DELTA LINES

	Thousand					
	Ton-miles	Operating expenses	Number of shipments	Average shipment weight (pounds)	Average length of haul (miles)	LTL/total tonnage
Campbell Sixty-Six	454,732	$82,996	777	1,851	633	.498
Delta Lines	468,307	147,597	2,061	1,127	403	.655

The relationship is found in the operations of two smaller carriers, Duff Truck Lines and O.K. Trucking. Table 3 shows that, while Duff generated 3.5 percent more ton-miles than O.K. Trucking, Duff's volume of transport service, as measured by operating expenses, was about 72 percent large than of O.K. Trucking. Duff carried more than two and one half times as many shipments as O.K. Trucking, and at an average distance only about one-half that of O.K. Trucking at an average weight seven-tenths that of O.K. Trucking. While 45 percent of Duff's freight tonnage was higher services content LTL haulage, only 40 percent of O.K. Trucking's tonnage was of this type. In terms of service-providing characteristics of haulage, Duff, carrying more light shipments and more LTL shipments for shorter distances, is seen to have supplied more service than indicated by raw ton-miles.

TABLE 3.—COMPARISON OF 1981 OPERATING EXPENSES, TON-MILES AND SERVICE-PROVIDING CHARACTERISTICS OF HAULAGE, DUFF TRUCK LINES AND O.K. TRUCKING

	Thousand					
	Ton-miles	Operating expense	Number of shipments	Average shipment weight (pounds)	Average length of haul (miles)	LTL/total tonnage
Duff Truck Lines	124,807	$57,610	835	1964	152	.450
O.K. Trucking	120,529	33,488	321	2798	268	.400

The above comparisons demonstrate not only that ton-miles usually provide a seriously misleading measure of trucking output, they also suggest that a more fruitful approach to measuring trucking output is one which focuses on the physical attributes of the service and on the way in which they determine its amount and value.

The implications of the above comparisons have not been lost to economists, who are increasingly coming to recognize that the output of trucking service depends on the type of haulage the carrier provides and that the output content of a ton-mile thus can be very different between carriers or between periods of time. A recent statement of this awareness put it this way:

"Because tracking output is highly heterogeneous, a single output measure such as ton-miles is inappropriate to use in estimating trucking costs. Not only do different firms carry different commodities, but also, different firms utilize widely different shipment sizes, loads, and lengths of haul. Moreover, firms vary widely in the share of less-than-truck-load (LTL) traffic they carry. Thus, two firms, each carrying an equal number of ton-miles over a year, can have very different types of output. One could concentrate on shorthaul, small-load, LTL traffic, while the other could concentrate on long-haul, large-load, truckload traffic. In view of the differences in the composition of their output, it would be highly unlikely if they had the same costs, although this would be assumed by conventional econometric studies of the trucking industry."[1]

The approach adopted in this report, therefore, involves the development of single measure of output which explicitly reflects the way in which the primary physical attributes of trucking service combine to determine the amount of trucking service produced.

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[1] R.H. Spady and A.F. Friedlaender, "Hedonic Cost Functions for the Regulated Trucking Industry," *The Bell Journal of Economics*, Spring 1978, pp. 163–164.

A statistical analysis of the factors which are predominantly responsible for differences in output between carriers was conducted, and the results are described in detail in Appendix B. It was found that four factors accounted for practically all of the differences in the output among carriers. This was true whether the output was measured by the amount of money spent by the carrier to produce its service as described by operating expenses or whether it was measured by the quantity of money paid by shippers to obtain the carrier's service as described by operating revenues.

The four factors that explained the output of a carrier were (1) the number of shipments, (2) the average shipment weight, (3) the average length of haul, and (4) the proportion of total tonnage accounted for by LTL shipments. No other factors emerged as being anywhere near in importance to these four factors. The addition of other factors in the statistical analysis added virtually nothing to the already high degree of explanation of differences in output among carriers provided by the four basic factors.

THE TREND IN OUTPUT FOR THE 96 CARRIER NATIONAL STUDY GROUP

Specification of the output index

As suggested above, the formula to be used in the measurement of output should reflect the fact that the magnitude of a carrier's operations, i.e. the amount of service produced, is not measured by simple reference to its ton-miles; rather it is measured by reference to the characteristics of its haulage that go to determine its ton-miles, i.e. to its number of shipments, average shipment weight, average length of haul, and the relative importance of LTL haulage. That is, true output is more precisely measured by employing knowledge of how many shipments were carried, their average weight, their average distrance, and the extent to which they were handled by LTL operations. In the measure of output, therefore, the relative effect of each of these characteristics has to be separately specified and measured to reflect the evident fact that changes in (say the importance of LTL haulage have a different meaning for output change than do changes in length of haul.

To capture these differential effects as they determine the output trend for the 96 Carrier National Study Group the formula described above was applied to data for the study group carriers. A unique parameter was estimated for each of the four characteristics of output, the numerical value of which describes the effect on output of the particular characteristic. The formula has the following form:

$$\text{Output} = f(S^{a_1} \,.\, W^{a_2} \,.\, H^{a_3} \,.\, e^{a_4 LTL})$$

Where: S = number of shipments
W = average shipment weight
H = average length of haul
LTL = LTL tonnage as proportion of total tonnage
e = 2.71828...(base of system of natural logarithms)

The parameters a_1, a_2, a_3, and a_4 were estimated, using multiple regression analysis. The value of each was found to be statistically significant, and reliable for the purpose of estimating output.[2]

The measure of the relative output of different carriers used to estimate the exponents a_1, a_2, a_3, and a_4 was the given carrier's operating expense in the year to which its shipments, average shipment weight, average length of haul and relative importance of LTL tonnage applied.[3] There were several reasons why expenses were used as the measure of relative output. First, operating expenses directly reflect the amounts of resources that the carrier used to produce the quantity of trucking service it provided. Second, expenses have been the most commonly used measure to describe the scale of output in existing studies of production functions and productivity. Third, there is a close connection between the analysis of cost and the analysis of production both in concept and in measurement, upon which the analysis of productivity is based.

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[2] The rationale for using this particular specification of the output equation is discussed below in Appendix B-2.

The changing structure of output: The calculation of a linked output series

As shown in Tables 4 and 5 there have been major changes in the structure of output for the 96 carrier National Study group over the 1968–1982 period. In the first ten years (1968–1978) the number of shipments remained relatively level, increasing slightly from 135 million in 1968 to 136 million in 1978. Shipment size and distance increased however, with average shipment weight rising from 1337 to 1885 pounds and average haul growing from 426 to 570 miles. The increase in average weight in part reflected an increase in the relative importance of truckload haulage and a decrease in that of less-than-truckload haulage, the share of LTL tonnage falling from 43 percent to 38 percent of total tonnage. It also reflected a change in the character of LTL haulage; the number of less-than-truckload shipments declined somewhat and on average grew heavier. Over the same period the number of truckload shipments increased significantly and their average weight remained relatively constant.

The last four years (1978–1982) reflected the effects on truckload haulage of the Interstate Commerce Commission policy of basically free and open entry into the motor carrier industry and the passage of the Motor Carrier Act of 1980. Where it had taken ten years for the number of truckload shipments to grow from about 3.6 to 5.4 million, it took only four years for them to return to almost their 1968–1971 levels. While the modest 1968–1978 decline in LTL haulage was accelerated in 1978–1982, the even sharper decline in truckload traffic meant that LTL haulage had increased in relative importance, which represented a reversal of the trend for the preceding ten years.

TABLE 4.—TRENDS IN SERVICE-PROVIDING CHARACTERISTICS OF HAULAGE, 96 CARRIER NATIONAL STUDY GROUP, 1968–82

	Number of shipments (thousands) (S)	Average shipment weight (pounds) (W)	Average length of haul (miles) (H)	LTL/total tonnage
Year:				
1968	135,247	1,337	426	0.427
1969	136,951	1,438	446	0.418
1970	128,108	1,441	458	0.423
1971	129,863	1,520	476	0.415
1972	132,886	1,594	491	0.406
1973	136,159	1,745	496	0.386
1974	130,397	1,745	510	0.393
1975	122,883	1,578	530	0.417
1976	133,726	1,652	538	0.398
1977	134,659	1,786	553	0.387
1978	136,234	1,885	570	0.375
1979	133,055	1,869	578	0.382
1980	123,786	1,673	602	0.427
1981	120,257	1,649	612	0.440
1982	111,809	1,569	620	0.462

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[3] As shown in Appendix B, had the output equation been based on data for revenues it would have had slightly but not materially different exponents. This means that the output and productivity growth rates are slightly different if one uses the expense-based output formula then if one uses the revenue-based formula.

TABLE 5.—TRENDS IN NUMBER OF SHIPMENTS AND AVERAGE SHIPMENT WEIGHT, TRUCKLOAD AND LESS-THAN-TRUCKLOAD, 96 CARRIER NATIONAL STUDY GROUP, 1968–82

	Number of shipments (thousands)		Average shipment weight (pounds)	
	TL	LTL	TL	LTL
Year:				
1968	3,591	131,656	28,850	586
1969	3,980	132,971	28,825	619
1970	3,742	124,366	28,483	628
1971	3,916	125,947	29,504	650
1972	4,410	128,477	28,562	669
1973	4,904	131,255	29,736	699
1974	4,836	125,561	28,583	711
1975	3,892	118,990	29,068	679
1976	4,522	129,204	29,418	680
1977	5,007	129,652	29,451	718
1978	5,443	130,790	29,466	737
1979	5,251	127,804	29,231	745
1980	4,313	119,473	27,475	742
1981	3,891	116,366	28,556	749
1982	3,326	108,483	28,380	747

These changes meant that the structure of production and cost also changed, with corresponding changes in the output equivalents of the changing mix of traffic. Given this change, error might be introduced into the measure of output trend if it were based output-cost relationships for a particular year.

That such a change in the relationship between the physical attibutes of output and expenses did in fact occur is exhibited below in Appendix Table B–1. Here it is seen that there were progressive changes in the constants of the output equation as data for successive years were used to estimate the equation. The changes in constants reflected the changing composition of traffic mentioned above.

To allow these changes in output coefficients to be reflected in the output measure, the output equation was recomputed each year, using that year's data, to reflect the then current relationship between the structure of output and operating expense. The output equation based on 1968 data was used to estimate the output index for that year and for 1969. Then a new output equation was computed using 1969 data and this was used to calculate the output index for 1969 and for 1970. This procedure was followed for overlapping successive pairs of years through the 1968–1982 period. A single output series was then calculated by linking the successive pairs of annual indexes (Table 6).

TABLE 6.—LINKED OUTPUT INDEX BASED ON ANNUAL CROSS-SECTION OUTPUT EQUATIONS, OPERATING EXPENSE USED AS MEASURE OF RELATIVE OUTPUT 1968–82

Year of cross-section data	Year pair	Ratio: $\text{index}_T / \text{index}_{T-1}$	Linked index 1968 = 100
1968	1968	100.00	100.00
	1969	109.75	109.75
1969	1969	100.00	
	1970	94.91	104.17
1970	1970	100.00	
	1971	107.17	111.64
1971	1971	100.00	
	1972	107.41	119.91
1972	1972	100.00	
	1973	109.49	131.29
1973	1973	100.00	
	1974	97.22	127.64
1974	1974	100.00	

TABLE 6.—LINKED OUTPUT INDEX BASED ON ANNUAL CROSS-SECTION OUTPUT EQUATIONS, OPERATING EXPENSE USED AS MEASURE OF RELATIVE OUTPUT 1968–82—Continued

Year of cross-section data	Year pair	Ratio: index$_T$/index$_{T-1}$	Linked index 1968=100
	1975	89.65	114.43
1975	1975	100.00	
	1976	112.50	128.73
1976	1976	100.00	
	1977	107.43	138.29
1977	1977	100.00	
	1978	106.39	147.14
1978	1978	100.00	
	1979	98.27	144.60
1979	1979	100.00	
	1980	89.52	129.44
1980	1980	100.00	
	1981	97.68	126.44
1981	1981	100.00	
	1982	90.48	114.41

MEASUREMENT OF LABOR INPUT

Refining the measure of labor input

In many studies of trends in labor productivity the number of employees is used as the measure of labor input. The usual justification for doing this is the easy availability of data on employees coupled with the unavailability of information on other dimensions of labor input.

The trend in labor input based on number of employees, however, may depart significantly from one based on the concept of hours of effective labor input. Aspects of motor carrier labor input not identified and measured by counts of the number of employees relate to two kinds of developments. One is the change in the number of hours worked by the average worker. The second is the shift in the skill composition of the motor carrier labor force, with resultant effects on the amount of effective labor input per hour worked.

The first change, that in hours worked per worker, reflects the broad national trend toward the shorter work-week. The second kind of change reflects the shifting composition of the labor force in general freight carriage. The shift would have little significance for the measurement of labor input if one could assume that each employee accounted for the same amount of labor input as that of every other employee. This assumption may not be warranted, however, as there are demonstrable differences in training, ability, and experience among the several categories of employees in general freight carriage. Such differences are reflected in differences in average compensation and so average compensation data can be used to weight the employees data. This weighted average thus serves as the measure of the change in effective labor input per employee man-hour.

The trend in labor input for the 96 carrier national study group

Table 6 presents the trend in the number of employees in the 96 carrier National Study group as well as the trend in hours worked per employee and in the skills composition of the labor force. It shows that, from 1968 through 1982, there was a significant decline in hours worked per employee, a development which was offset in part by a shift in the skill mix of the labor force in the direction of the more highly compensated types of employees. The net effect of these two offsetting changes has been an increase in effective labor input appreciably less than that suggested by the increase in the number of employees. The data upon which the refinement in the measure of labor input are based are presented in Appendix C.

TABLE 7.—INDEX OF EMPLOYEES, ADJUSTED FOR TRENDS IN MAN-HOURS WORKED PER EMPLOYEE, AND CHANGE N LABOR FORCE MIX, 96 CARRIER NATIONAL STUDY GROUP (1968=100)

	Number of employees (1)	Man-hours worked per employee[1] (2)	Change in labor force mix (3)	Adjusted labor input (1) × (2) × (3)
Year:				
1968	100.00	100.00	100.00	100.00
1969	108.88	100.29	99.94	109.13
1970	108.77	98.10	100.00	106.70
1971	111.71	98.87	100.33	110.81
1972	116.72	97.82	100.66	114.92
1973	123.41	96.96	101.00	120.85
1974	123.64	97.70	100.92	121.92
1975	113.22	95.86	101.32	109.96
1976	123.00	97.68	101.48	121.93
1977	131.36	97.31	101.59	129.86
1978	141.90	93.95	101.61	135.46
1979	142.58	94.92	101.50	137.38
1980	132.14	93.51	102.00	126.03
1981	131.80	89.22	101.69	119.57
1982	122.82	88.30	101.81	110.41

[1] Based on all employee classes except line-haul drivers. Comparable data on hours earned and hours worked are not reported for line-haul drivers.

FINDINGS ON THE 1968–82 PRODUCTIVITY TREND FOR THE 96 CARRIER NATIONAL STUDY GROUP

The trend in output per unit of effective labor input

The indexes of output and of man-hours adjusted for the changing labor force mix are presented in Table 8. These two measures are used to compute the productivity index, which is the ratio of the output index to the input index, also presented in Table 8.

The productivity series presented in Table 8 describes an essentially flat trend in labor productivity over the 14-year period from 1968 through 1982. Beginning at its 1968 base value of 100.00 the series went through three shallow cycles. Low points were reached in 1970, 1975, and in 1980. High points were reached in 1973, 1978, and, tentatively, 1981. In 1982 the index stood at 103.62, only 3.62 percentage points above its level 14 years earlier and 5.2 percentage points below the level of the peak of 1978.

As indicated above, the fourteen-year period 1968–1982 is sufficiently long that it can be taken as reflective of the broad developments that span the eleven years of evolutionary change that preceded the Motor Carrier Act of 1980 and the first three years of adjustment to the changed regulatory environment. This being the case, a useful summary measure of overall change is the rate of growth described by a trend line of the compound interest growth form. Such a trend line, fitted to the labor productivity series presented in Table 8, indicates a compound annual growth rate of 0.39 percent, i.e. slightly less than four-tenths of one percent per year.

TABLE 8.—INDEXES OF OUTPUT, ADJUSTED LABOR INPUT AND PRODUCTIVITY, 96 CARRIER NATIONAL STUDY GROUP, 1968–82

	Output index[1]	Adjusted labor input index[2]	Productivity index output/input
Year:			
1968	100.00	100.00	100.00
1969	109.75	109.13	100.57
1970	104.17	106.70	97.62
1971	111.64	110.81	100.75

TABLE 8.—INDEXES OF OUTPUT, ADJUSTED LABOR INPUT AND PRODUCTIVITY, 96 CARRIER NATIONAL STUDY GROUP, 1968–82—Continued

	Output index [1]	Adjusted labor input index [2]	Productivity index: output/input
1972	119.91	114.92	104.34
1973	131.29	120.85	107.68
1974	127.64	121.92	104.69
1975	114.43	109.96	104.06
1976	128.73	121.93	105.58
1977	138.29	129.86	106.49
1978	147.14	135.46	108.62
1979	144.60	137.38	105.25
1980	129.44	126.03	102.71
1981	126.44	119.57	105.75
1982	114.41	110.41	103.62

[1] Source: Table 6.
[2] Hours worked adjusted for changes in the skill mix of the labor force. See table 7.

The trend in output per employee

An alternate and less widely used measure of labor productivity is the index of output per employee. This measure is useful in comparisons with other productivity series which use the number of employees as the measure of labor input, such as that for air transportation compiled by the Bureau of Labor Statistics. The output per employee also has interpretive value in the rate-making process in that it may reflect the effects of cost-related developments not explained by broad technological and demographic changes. Thus a collective-bargaining agreement providing for an increased number of paid holidays or longer paid vacations may reduce the output per employee while having no effect on the output per hour worked. The output per employee measure would reflect this cost increasing change, while the output per hour measure would not.

The output per employee series is presented in Table 9. As in the case of the output per adjusted man-hour series, the output per employee series describes an essentially flat trend over the 1968–1982 period. The series went through two cycles, not yet recording a low point for the decline late in the period, as had the first series. As in the first series, the low points were reached in 1970 and in 1975. The timing of the high points was somewhat different, 1973, as before, and 1977; it was 1978 in the output per adjusted hour series. Moreover the later (1977) peak index was below the earlier (1973) peak index, whereas in the first series the later peak was above the earlier peak.

TABLE 9.—INDEXES OF OUTPUT, EMPLOYEES AND OUTPUT PER EMPLOYEE, 96 CARRIER NATIONAL STUDY GROUP, 1968–82

	Output index	Number of employees index	Productivity ratio: output/employee
Year:			
1968	100.00	100.00	100.00
1969	109.75	108.88	100.80
1970	104.17	108.77	95.77
1971	111.64	111.71	99.93
1972	119.91	116.72	102.73
1973	131.29	123.41	106.38
1974	127.64	123.64	103.23
1975	114.43	113.22	101.07
1976	128.73	123.00	104.66
1977	138.29	131.36	105.28
1978	147.14	141.90	103.69
1979	144.60	142.58	101.41

TABLE 9.—INDEXES OF OUTPUT, EMPLOYEES AND OUTPUT PER EMPLOYEE, 96 CARRIER NATIONAL STUDY GROUP, 1968–82—Continued

	Output index	Number of employees index	Productivity ratio: output/employee
1980	129.44	132.14	97.96
1981	126.44	131.80	95.93
1982	114.41	122.82	93.15

Source: Output index, table 6. Employee index, table 7.

In 1982 the index stood at 93.15, which was 6.85 percent below its base year 1968 level and 12.13 percentage points below its previous peak (1977) level. 1982 marked the fifth year of decline in the output per employee index, the successive annual percentage point declines being 1.59 percent, 2.28 percent, 3.45 percent, 2.03 percent, and 2.78 percent.

A trend line of the compound interest growth form was fitted to the output per employee series. The indicated compound annual growth rate was a negative 0.21 percent, i.e. a drop of about one-fifth of one percent per year.

Conclusions as to the 1968–82 Trend in Labor Productivity

1. Over the first eleven years of the 1968–1982 period the 96 carrier entities in the National Study group were producing transport service containing progressively lower service content per ton-mile. This reflected a shift in relative tonnage from LTL to truckload haulage, an increase in the average weight of LTL shipments, and an overall increase in the average length of haul. This was accompanied by substantial growth in the number of truckload shipments, which reached a peak in 1978.

2. The Interstate Commerce Commission policy of free and open entry coupled with the Motor Carrier Act of 1980 brought about a sharp reversal in the evolutionary pattern of the first ten years. The period 1978 through 1982 saw a sharp decline in truckload tonnage and number of shipments, and an increase in the ratio of LTL to total tonnage to a level well above what it had been in 1968. This occurred in spite of a significant decline in LTL tonnage and in the number of LTL shipments.

While LTL average weight tended to level off, the average length of haul grew in much the same manner as in 1968–1978, thus extending the decline in the service content of the LTL ton-mile through the full 14-year period. However, the sharp drop in the even lower service content truckload traffic meant that the ten year decline in the service content of the combined truckload and LTL ton-mile was reversed in the last four years of the 1968–1982 period. In 1978–1982 the service content of the combined TL and LTL ton-mile thus showed a modest increase.

3. The analysis of developments determining the quantity of effective labor input revealed a pair of offsetting developments. Man-hours worked per employee declined and about one-sixth of this decline was offset by a shift in the skill mix of the motor carrier labor force toward classes of employees having higher input per hour of labor time.

4. The productivity ratio based on the index of real output and the adjusted man-hour index of labor input showed a compound annual growth rate of 0.39 percent, or slightly less than four-tenths of one percent per year. The productivity ratio bases on the index of real output and the index of unadjusted number of employees showed a compound annual growth rate of −0.21 percent, or a negative one-fifth of one percent per year.

5. The evidence therefore indicates that, over the medium to long run period from 1968 to 1982, there was an essentially flat trend in labor productivity for the 96 carriers in the National Study Group.

I.C.C. 100 LARGEST—IS THE RELEASE MEANINGFUL?

The I.C.C. release entitled "Large Class I Motor Carriers of Property Selected Earnings Data" has been used to demonstrate the financial health of the Motor Carrier Industry. Recently the tabulations have been used to show that the motor carrier industry has not been damaged financially as a result of the MC Act of 1980. Conclusions have been drawn about the entire motor carrier industry based on the Composite showing of this release. Much reliance has been placed on the Calculated Return on Equity (ROE) of this group as an indication of the financial health of the industry. Comparisons of the percent change over time in the various line items have been made. Some of the major deficiencies in such showing and the misleading conclusions it lends itself to are detailed below:

The release being entitled "100 largest" is a misnomer. It is merely a compilation of the 100 largest OR thereabout(!) because of free substitution of carriers included. Even the source for the ranking of carriers is based on 2 year old data and is sourced from outside analysis. (T.T. Aug. 27, '84).

The I.C.C.'s calculation of the ROE ignores the data deficiencies for such a calculation. It is well known that the specialized carriers and Household Goods carrier Balance Sheet items are not meaningful until the investment of the owner operator and the agents are included. It is also well recognized that carrier only data does not include the investment of the affiliates. The mere arithmetic aggregation seriously understates the equity and overstates the ROE.

The ROE is further miscalculated by the I.C.C.'s use of equity as of the "end of previous calendar year". In the case of the latest 4 quarters, this equity would represent the EDY 1982, or equity levels 15 months old. Data from other sources indicate an increase of about 12.5% between 1982 and 1983. This adjustment alone will reduce the calculated ROE by 1.5%.

To properly evaluate the data it is necessary to recognize the profile of carriers included in the showing. It includes specialized carriers, Household goods carriers, as well as General freight carriers. The service rendered by each segment is very different and the financial health should be evaluated separately. (See item A.)

To properly evaluate the data it is necessary to recognize the significance of the changes in carrier consist over time. (See item B.)

The profit picture of the General Freight Segment should not be viewed in composite. An analysis of the underlying date shows a vastly different picture: (Item D.)

(1) The rich are becoming richer and the poor are becoming poorer.

This despite numerous carriers going out of business during the last few years. An assertion made at the time of the MC Act was that the "inefficient" are not protected and go under, while the residual industry would be very efficient. Productivity has not improved.

(2) The share of the market of the mega carriers has been consistently increasing. Concentration in this industry is alarming. (Item E.)

(3) A profile of the carriers who have gone out of business during the past few years show that about a third of the industry has been turned over.

The calculated growth rate among the 100 largest is misleading. All the mergers and acquisitions in prior years has not been reflected in the prior period. It is also demonstrable that a high growth rate is only among a few carriers. (Item C.)

Item A: Carrier profile

One hundred largest does not represent the Common Carriers of General Freight—

The profile of the 100 largest in 1983 is as follows:

	Carriers
General freight	−66
Household goods	−7
Specialized carriers	−21
Other commodity	−6

The General Freight sub group (consisting of the 66 general freight carriers in the 100 largest (hereinafter called ICC66) accounted for $12.53 billion of the $16.5 billion of the 1983 revenues of the 100 largest. A comparable group of general freight carriers is the group whom the Regular Common Carriers includes in their quarterly survey (hereinafter called RCCC). The RCCC group includes most of the ICC66 and showed 1983 revenues of $13.15 billion.

	Number	Revenue	Operating income	Operating ratio (percent)
In ICC66 and RCCC	50	11,088,319	487,000	95.6
In ICC66 but not RCCC	16	1,441,244	68,241	95.3
In RCCC but not ICC66	108	1,061,231	44,962	95.8
Total	174	13,590,794	600,203	95.6

Though the composite operating ratio of the ICC66 and the combined 174 carriers in the above table are reasonably similar, they may not portray the profit picture of the numerous carriers not in the 174 carrier totals. Even within these frames, the 4 largest showed a 1983 O/R of 92.5, while all the others combined had an O/R of over 97.0.

For example, if only the 4th Quarter 1983 was reviewed, the operating ratio profile is as follows:

	Revenue	Operating income	Operating ratio (percent)
In ICC66 and RCCC	3,060,571	118,097	96.1
In ICC66 but not RCCC	368,402	13,953	96.2
In RCCC but not ICC66	545,755	10,982	98.0
Total	3,974,728	142,942	96.4

The ratio for the 108 not large carriers is 98.0 as compared to 96.4 for the combined group and 92.3 for the 4 largest.

Item B: Change in carrier consist

The profile and results of the 100 largest does not portray the full and true picture of the change in the financial profile of the general freight (GF) carriers. Table A lists the GF carriers who were included in the 100 largest for 1979, but have since been excluded (for whatever reason) from the frame. As can be seen, there are 21 carriers in this group which revenues of $2.29 billion dollars. They accounted for 20% of the GF aggregate for 1979, and 30% of the aggregate o/t top 4. About a third of the GF 100 largest have been turned over since 1979. These carriers have been replaced by a group that accounts for 11% of the GF aggregate for 1983, and 17% of the GF aggregate o/t top 4. The substitution has given up about 10% of the market share to other carriers. Are these new carriers significantly more profitable than the carriers they replace? The new Carriers in 1983 are less profitable than the "o/t top 4" GF carrier aggregate by 1.7 points. The carriers who were dropped from the frame were 1.5 points worse than the "o/t top 4" GF for 1979. The specialized subgroup also had a turnover in carriers. 8 carriers were dropped from the frame (for whatever reason) accounting for 22% of the total for "o/t GF" carriers, and a ratio deviation of 0.5 points worse; the additions in 1983 were 12 carriers accounting for 17% of the total for "o/t GF" carriers, and a ratio deviation of 1.9 points better.

In summary the change in carrier consist has been significant and cannot be ignored.

Item C: Growth rate

The calculated aggregate growth in revenues is misleading. The contribution to the growth can be attributed to a few carriers. The data of the 100 largest has not been compiled carefully to add acquisitions during the two years of any non-100 carrier. As such, growth rates are meaningless. Likewise, tonnage change should be discounted.

The median growth in the income margin was nowhere close to "tripling," if the changes from negative to positive were ignored. Of the 79 (who) reported improved net carrier operating income, over 30 merely had lesser losses, or reported meager profits from prior year losses.

Item D: Profit picture—GF carriers

While the aggregate profit picture for 1983 for the ICC66 shows a ratio of 96.1, the underlying detailed distribution shows that 18 carriers have ratios over 100. Table C shows the frequency distribution of operating ratios during the various periods. It shows that the number of loss carriers in 1979 and 1983 has remained constant. The rich have become richer (from 91.1 to 89.8 for the last cell), and the poor have become poorer (102.5 to 104.2 for the first cell). The tonnage share of the most profitable carriers increased from 19% to 23%, while the share of the least profitable decreased from 26% to 19%. The most profitable accounted for 67% of the total income, up from 61% in 1979. The contribution of the loss carriers to the losses also increased. The evaluation of the 4th quarter by itself shows the same picture with a widening spread between the profitable and the unprofitable carriers.

Item E: Impact of top 4

The profit picture is considerably clouded by the contribution of the big 4. They account for about 35% of the revenue and 60% of the operating income during 1983. In 1982, the carriers o/t the top 4 lost $16 million in the aggregate, which explains the apparent big increase in the net operating income. To view it in perspective, the net operating income profile is shown below as margin rather than dollars:

	Percent	
	1982	1983
Top 4	3.9	7.5
ICC66 o/t top 4	−0.2	2.7
RCCC o/t top 4	−1.1	2.3

The above picture also demonstrates that looking at the 100 largest does not portray a true picture of the industry.

A close look at the carrier-by-carrier change in operating income between 1982 and 1983 shows that the upward change represented by the aggregate is not uniformly applicable. The table below shows the distribution of percent change:

	1982	1983
Over 50 percent increase	—	11
25 to 50 percent	—	10
0 to 25 percent	—	6
Decrease	—	6
Not meaningful	—	33

Not meaningful: Carriers who either changed from negative to positive income or vice versa, as well as any carrier who remained negative.

TABLE A.—CARRIERS IN 1979 BUT NOT IN 1983

[Full year 1979]

	Code	Revenues	Operating income	Operating ratio (percent)	Tons
Carrier name:					
Spector Freight	01	$316,202	$7,005	97.8	3,653
East Texas Motor	01	235,021	2,279	99.0	1,918
T.I.M.E. DC	01	169,735	4,630	97.3	1,109
Wilson Freight	01	165,123	−6,976	104.2	1,983
Jones Motor	01	147,504	2,493	98.3	2,158
Gateway Transport	01	147,387	−7,227	104.9	1,968
Delta Lines	01	137,958	4,061	97.1	1,409
Red Ball Motor	01	133,641	1,637	98.8	1,494
Gordons Transport	01	97,639	3,092	96.8	1,132
Johnson Motor Lines	01	94,578	−2,082	102.2	985
Maislin (DE)	01	77,694	4,528	94.2	1,602
Motor Freight Express	01	75,735	−1,304	101.7	1,247
Dohrn Transfer	01	74,249	502	99.3	984
Cooper-Jarrett	01	66,333	−2,816	104.2	673
Briggs Transport	01	64,883	−1,645	102.5	812
Hemingway Transport	01	64,405	2,483	96.1	804
Eazor Express	01	61,125	328	99.5	976
Transport Motor	01	48,689	−68	100.1	947
Maislin Transport	01	43,286	−1,490	103.4	1,293
Tucker Freight	01	40,714	−793	101.9	884
Strickland Transport	01	31,325	1,411	95.5	319
Grand total		2,293,226	10,048	99.6	28,350

TABLE B.—CARRIERS IN 1983 BUT NOT IN 1979

[Full year 1983]

	Code	Revenues	Operating income	Operating ratio (percent)	Tons
Carrier name:					
Old Dominion Freight	01	$130,860	$3,179	97.6	1,993
Milne Truck Lines	01	86,115	193	99.8	600
Holland Motor Express	01	72,965	7,556	89.6	627
Churchill Truck	01	72,513	4,596	93.7	522
CRST	01	70,173	2,851	95.9	1,228
Northwest Transport	01	67,533	8,792	87.0	344
Mistletoe Express	01	67,181	2,481	96.3	252
BN Transport	01	65,352	−4,262	106.5	453
Overland Express	01	64,156	4,001	93.8	997
Crete Carrier	01	62,762	3,338	94.7	1,143
AAA-Cooper Tranport	01	59,120	6,102	89.7	576
Lynden Transport	01	58,981	3,996	93.2	1,434
Advance Transport	01	58,840	872	98.5	626
Southeastern Freight	01	58,651	8,617	85.3	679
Jones Transfer	01	57,036	3,627	93.6	1,183
Holmes Transport	01	55,455	121	99.8	647
Oneida Motor Freight	01	55,177	693	98.7	479
Duff Truck Line	01	53,561	−74	100.1	766
Mercury Motor Express	01	48,786	−2,933	106.0	534
Saia Motor Freight	01	47,477	6,477	86.4	524
Red Arrow Freight	01	46,234	−316	100.7	650
Grand total		1,358,928	59,907	95.6	16,257

TABLE C.—ICC 100 LARGEST FREQUENCY DISTRIBUTION, GENERAL FREIGHT CARRIERS ONLY

[Full year 1983]

	Number of carriers	Revenue	Operating income	Operating ratio (percent)	Tons
Operating ratio cell:					
Over 100	18	$2,328,063	−$98,392	104.2	18,794
97.6 to 100	13	1,462,632	18,686	98.7	14,633
95.1 to 97.5	10	2,607,787	91,378	96.5	20,402
92.6 to 95.0	13	2,585,245	174,230	93.3	20,700
92.5	12	3,545,836	369,339	89.6	22,147
Total	66	12,529,563	555,241	95.6	96,676

TABLE D.—ICC 100 LARGEST FREQUENCY DISTRIBUTION GENERAL FREIGHT CARRIERS ONLY

[Full year 1979]

	Number of carriers	Revenue	Operating income	Operating ratio (percent)	Tons
Operating ratio cell:					
Over 100	20	$2,779,394	−$68,701	102.5	34,051
97.6 to 100	17	2,319,133	31,729	98.6	27,496
95.1 to 97.5	10	1,846,100	67,921	96.3	19,212
92.6 to 95.0	9	2,015,362	125,602	93.8	25,919
92.5	10	2,775,326	247,774	91.1	24,877
Total	66	11,735,315	404,325	96.6	131,555

TABLE E.—ICC 100 LARGEST FREQUENCY DISTRIBUTION GENERAL FREIGHT CARRIERS ONLY

[Fourth quarter 1983]

	Number of carriers	Revenue	Operating income	Operating ratio (percent)	Tons
Operating ratio cell:					
Over 100	23	$734,122	−$44,211	106.0	6,596
97.6 to 100	10	320,557	3,488	98.9	2,702
95.1 to 97.5	13	694,180	23,977	96.5	5,791
92.6 to 95.0	8	625,161	41,356	93.4	4,338
92.5	12	1,054,953	107,440	89.8	6,519
Total	66	3,428,973	132,050	96.1	25,946

TABLE E.—ICC 100 LARGEST FREQUENCY DISTRIBUTION GENERAL FREIGHT CARRIERS ONLY

[Fourth quarter 1983]

	Number of carriers	Revenue	Operating income	Operating ratio (percent)	Tons
Operating ratio cell:					
Over 100	23	$870,042	−$26,984	103.1	9,463
97.6 to 100	11	436,156	3,675	99.2	5,282
95.1 to 97.5	12	531,533	19,266	96.4	5,488
92.6 to 95.0	11	730,198	46,992	93.6	7,675
92.5	9	758,124	73,497	90.3	5,969
Total	66	3,326,053	116,446	96.5	33,877

	Code	Revenues	Operating income	Operating ratio (percent)	Tons
Full year 1983					
Carrier name:					
Grand total		$16,480,908	$659,946	96.0	166,364
OI code total		12,529,563	555,241	95.6	96,676
Top 4 total		4,439,322	335,076	92.5	21,326
OI exc. top 4 total		8,090,241	220,165	97.3	75,350
Non-OI total		3,951,345	104,705	97.4	69,688
Full year 1979					
Grand total		15,468,105	554,613	96.4	209,366
OI code total		11,735,315	404,325	96.6	131,555
Top 5 total		3,714,483	250,430	93.3	29,759
OI exc. top 4 total		8,020,832	153,895	98.1	101,796
Non-OI total		3,732,790	150,288	96.0	77,811
Fourth quarter 1983					
Grand total		4,488,838	157,008	96.5	44,278
OI code total		3,428,973	132,050	96.1	25,946
Top 4 total		1,223,708	94,699	92.3	5,636
OI exc. top 4 total		2,205,265	37,351	98.3	20,310
Non-OI total		1,059,865	24,958	97.6	18,332
Fourth quarter 1979					
Grand total		4,336,631	160,203	96.3	52,961
OI code total		3,326,053	116,446	96.5	33,877
Top 4 total		1,057,677	78,179	92.6	7,709
OI exc. top 4 total		2,268,376	38,267	98.3	26,168
Non-OI total		1,010,578	43,757	95.7	19,084